



June 13, 2023

VIA E-FILING

David P. Zambito

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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. Westover Property Management Company, L.P.; Docket Nos. C-2022-3030251 and P-2021-3030002

Partial Settlement – Attachment F (Statement in Support of Westover Property Management Company, L.P. d/b/a Westover Companies)

Stipulation of Facts – Pleadings and Testimony of Westover Property Management Company, L.P. d/b/a Westover Companies

Dear Secretary Chiavetta:

Today, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) is filing a Joint Petition for Partial Settlement (“Settlement”) in the above-referenced matters. Appendix A to the Settlement is a Joint Stipulation of Facts (“Stipulation”). In Paragraph 3 of the Stipulation, the Parties stipulate to the entry into the record of certain pleadings (including all attachments and exhibits to the pleadings). Each Party is submitting its own pleadings. Enclosed please find the following pleadings on behalf of Westover:

a. The Petition for Declaratory Order, filed by Westover on December 13, 2021 at Docket No. P-2021-3030002 with Appendices 1-4 and 16 (Appendices 5-15 (**CONFIDENTIAL**) will be filed separately);

b. The Answer to the Complaint, and New Matter, filed by Westover on January 25, 2022 at Docket No. C-2022-3030251, including Exhibit B (Exhibit A (**CONFIDENTIAL**) will be provided separately);

c. The Amended Petition for Declaratory Order, filed by Westover on May 16, 2022 at Docket No. P-2021-3030002 with Appendices 1-13;

d. The Petition for Review and Answer to Material Questions and for Immediate Stay of Proceeding, filed by Westover on October 28, 2022;

e. The Brief in Support of the Petition for Review and Answer to Material Questions and for Immediate Stay of Proceeding, filed by Westover on November 7, 2022 (with Exhibits 1-4); and

f. The Motion for Summary Judgment, filed by Westover on February 10, 2023 with Exhibits 1, 2, 4, 7 and 8 (Exhibits 3, 5, 6 and 9 (**CONFIDENTIAL**) will be filed separately).

In Paragraph 4 of the Stipulation, the Parties stipulate to the entry into the record of certain testimony (including all attachments and exhibits to the testimony). Each Party is submitting its own testimony. Enclosed please find the following testimony on behalf of Westover:

a. Westover Statement No. 1, Direct Testimony of Peter Quercetti, with verification, including Exhibits PQ-1, 3, 5-7, 11, 14 and 30 (Exhibits PQ-2, 4, 8-10, 12-13 and 15-29 (**CONFIDENTIAL**) will be filed separately);

b. Westover Statement No. 2, Direct Testimony of Alexander Stefanelli, with verification, including Exhibits AS-1 through AS-18;

c. Westover Statement No. 1-R, Rebuttal Testimony of Peter Quercetti (**Proprietary Version**), with verification, including Exhibits PQ-31 through PQ-37, will be provided separately;

d. Westover Statement No. 1-R, Rebuttal Testimony of Peter Quercetti (Non-Proprietary Version), with verification, including Exhibits PQ-33 and 36; and,

e. Westover Statement No. 2-R, Rebuttal Testimony of Alexander Stefanelli, with verification, including Exhibits AS-19 through AS-25.

Copies have been served as shown on the enclosed certificate of service.

Please contact me if you have any question or concern. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR



By: David P. Zambito
Counsel for *Westover Property Management
Company d/g/a Westover Companies*

DPZ/kmg
Enclosures

cc: Deputy Chief Administrative Law Judge Christopher P. Pell
Athena Delvillar
Per Certificate of Service
Alexander Stefanelli, CFO, Westover Companies
Peter Quercetti, Vice President of Operations Management, Westover Companies

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket Nos. C-2022-3030251 P-2021-3030002
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of June, 2023 served the foregoing **Correspondence Filing Pleadings and Testimony of Westover Property Management Company, L.P. d/b/a Westover Companies**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

Kayla L. Rost, Esq.
Scott Granger, Esq.
Michael L. Swindler, Esq.
Pennsylvania Public Utility Commission
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David P. Zambito, Esq.
Counsel for *Westover Property Management
Company, L.P. d/b/a Westover Companies*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Christopher P. Pell**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket Nos. C-2022-3030251 P-2021-3030002
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies	:	
	:	

**PARTIAL SETTLEMENT BETWEEN WESTOVER PROPERTY MANAGEMENT
COMPANY, L.P. D/B/A WESTOVER COMPANIES AND BUREAU OF
INVESTIGATION AND ENFORCEMENT**

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Date: June 13, 2023

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December 13, 2021

VIA E-FILING

David P. Zambito

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Second Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: In re: Petition of Westover Property Management Company, L.P. d/b/a Westover Companies for a Declaratory Order Regarding the Applicability of the Gas and Hazardous Liquids Pipeline Act; Docket No. P-2021-_____

Petition of Westover Companies for Declaratory Order

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") is the above-referenced Petition for Declaratory Order ("Petition"). Copies of the Petition are being served on all parties, as indicated on the enclosed Certificate of Service.

If you have any question or concern regarding this filing, please direct them to me. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for *Westover Property Management Company, L.P. d/b/a Westover Companies*

DPZ:kmg
Enclosures

cc: Per Certificate of Service
Alexander Stefanelli, CFO, Westover Companies
Peter Quercetti, Vice President Operations Management, Westover Companies

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies for a : Docket No. P-2021-_____
Declaratory Order Regarding the Applicability of :
the Gas and Hazardous Liquids Pipeline Act :

CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of December, 2021 served a true copy of the foregoing **Petition of Westover Companies for Declaratory Order**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

Richard A. Kanaskie, Esq.
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David P. Zambito, Esq.
Counsel for *Westover Property Management
Company, L.P. d/b/a Westover Companies*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies for a : Docket No. P-2021-_____
Declaratory Order Regarding the Applicability of :
the Gas and Hazardous Liquids Pipeline Act :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.61, you are hereby notified that you have twenty (20) days from the service of the enclosed petition of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) to file an answer to the petition. All pleadings, such as an answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Westover, and where applicable the Administrative Law Judge presiding over the case.

File with:

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

With a copy to:

David P. Zambito, Esq. (PA ID #80017)
Jonathan P. Nase, Esq. (PA ID #44003)
Cozen O’Connor
17 North Second St., Suite 1410
Harrisburg, PA 17101



David P. Zambito
Counsel for
*Westover Property Management Company, L.P.
d/b/a Westover Companies*

Dated: December 13, 2021

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies for a : Docket No. P-2021-_____
Declaratory Order Regarding the Applicability of :
the Gas and Hazardous Liquids Pipeline Act :

**PETITION OF WESTOVER COMPANIES
FOR DECLARATORY ORDER**

Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) files this Petition for a Declaratory Order (“Petition”), pursuant to 66 Pa. C.S. § 331(f) and 52 Pa. Code § 5.42, to resolve an actual case and controversy regarding whether Westover is subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.* (“Act 127”). Westover respectfully requests that the Commission declare that Westover is not subject to Act 127.

In support thereof, Westover avers and argues as follows:

I. INTRODUCTION – ON-GOING CASE AND CONTROVERSY

1. This Petition concerns an on-going case and controversy regarding whether Westover is subject to Act 127. Westover owns several apartment complexes in Pennsylvania. In each complex, Westover purchases gas at a point in Pennsylvania from a Commission-regulated public utility (a natural gas distribution company (“NGDC”)) and distributes it to the tenants in

the complex, charging them for the gas through a meter or rents in compliance with the requirements of 66 Pa. C.S. § 1313 (regarding “Price upon resale of public utility services”).¹

2. By correspondence dated July 28, 2021, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) notified Westover that I&E had commenced an investigation into whether Westover is in compliance with Act 127. **Appendix 1.** That correspondence stated “[t]his investigation focuses on determining which apartment complexes owned or managed by Westover meet the definitions of ‘pipeline operator’ and ‘master meter system’ set forth in 58 P.S. § 801.102 and 49 CFR § 191.3, respectively, such that compliance with Federal pipeline safety laws and regulations, including 49 CFR Part 192, is obligatory.”

3. In addition, I&E field investigators have notified Westover that it must comply with Federal pipeline safety laws. *See, e.g., Appendix 2.* As a result, Westover filed an Act 127 pipeline operator registration with the Commission and has already incurred over \$70,000 in compliance costs.

4. By correspondence dated November 4, 2021, Westover advised I&E of its position that it is not an “operator” of a “master meter system.” **Appendix 3.**

5. By correspondence dated November 22, 2021, I&E notified Westover that I&E disagreed with Westover’s position. **Appendix 4.** I&E demanded that Westover advise I&E, by December 13, 2021, whether Westover will submit to the Commission’s jurisdiction pursuant to Act 127 and finalize the steps necessary to fully comply with the Federal pipeline safety laws.

6. For the reasons discussed below, Westover respectfully requests that the Commission declare that Westover’s Facilities are not subject to Act 127.

¹ Westover’s natural gas transportation facilities will be referred to herein as the “Westover Facilities.”

II. THE PARTIES

7. Westover is not a Commission-regulated public utility. Its business address is: 550 American Avenue, Suite 1, King of Prussia, PA 19406.

8. Westover's counsel in this matter are:

David P. Zambito, Esq. (PA ID # 80017)
Jonathan P. Nase, Esq. (PA ID # 44003)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
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9. I&E serves as the Commission's prosecutory bureau for the purposes of representing the public interest in ratemaking and service matters, and enforcing compliance with the Pennsylvania Public Utility Code ("Code") and Commission Regulations and Orders. *Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (Order entered Aug. 11, 2011).

III. FACTS

10. As stated previously, Westover owns several apartment complexes in Pennsylvania. In each complex, Westover purchases gas at a point in Pennsylvania from an NGDC and distributes it to the tenants in the complex, charging them for the gas through a meter or rents. The gas, once purchased by Westover, is transported entirely within Pennsylvania to end-users located in Pennsylvania.

11. All of Westover's Facilities are located on Westover's property. All of Westover's natural gas customers rent their premises from Westover.

12. Attached as **Appendices 5 through 15 (CONFIDENTIAL)** are maps and other information regarding the Westover Facilities.

IV. LEGAL STANDARDS

13. Section 331(f) of the Code, 66 Pa. C.S. § 331(f), and the Commission's regulations at 52 Pa. Code § 5.42 provide that the Commission may issue a declaratory order to terminate an actual controversy or to remove uncertainty. *Re Duquesne Light Co.*, 61 Pa. P.U.C. 507 (1986). For purposes of a petition for declaratory order, the Commission assumes the facts as alleged are true and issues a decision on the issues accordingly.

14. Considering that I&E is threatening to file a complaint against Westover in the near future, Westover files this Petition to resolve this case or controversy.

V. ARGUMENT IN SUPPORT OF DECLARATORY ORDER

15. As an agency created by the General Assembly, the Commission has only the powers given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The question presented is whether the Commission has statutory jurisdiction to regulate the Westover Facilities under Act 127.

16. Commission regulations at 52 Pa. Code § 59.33 state that the Commission adopts, as the minimum safety standards for all natural gas and hazardous liquid public utilities, the safety standards found in 49 U.S.C. §§ 60101-60503 and 49 CFR Parts 191-193, 195 and 199. In its November 22, 2021 letter, I&E concedes that Westover is not a public utility. **Appendix 4** at 1. Therefore, the Commission does not have jurisdiction to regulate the Westover Facilities pursuant to 52 Pa. Code § 59.33.

17. For the reasons that follow, it is respectfully submitted that the Commission also lacks authority to regulate the Westover Facilities pursuant to Act 127.

18. In 2011, the General Assembly enacted Act 127 in response to the growth of Marcellus Shale in Pennsylvania. In pertinent part, Section 501(a) of Act 127, 58 P.S. § 801.501(a), gives the Commission the general administrative authority to supervise and regulate “pipeline operators” within this Commonwealth who are subject to Federal pipeline safety laws. The General Assembly also empowered the Commission to adopt regulations, consistent with the Federal pipeline safety laws, but the Commission -- after a decade -- has not yet promulgated regulations implementing Act 127 or specifically defining its interpretation of the limits of its powers under Act 127.²

19. Act 127 gives the Commission authority only to regulate the Westover Facilities if Westover is a “pipeline operator,” which is defined as:

"Pipeline operator." A person that owns or operates equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility *regulated under Federal pipeline safety laws*. The term does not include a public utility or an ultimate consumer who owns a service line on his real property.

58 P.S. § 801.102 (“Definitions”) (emphasis added).³

20. The definition of “pipeline” in Act 127 reiterates that Act 127 pertains only to pipelines regulated by Federal pipeline safety laws.⁴

² Under the Pennsylvania regulatory review process, interested parties would have had an opportunity to provide comments on the appropriate implementation of Act 127 and binding norms on all similarly-situated entities could have been developed. Moreover, the Pennsylvania General Assembly would have had an opportunity to review the Commission regulations and assess consistency with the legislative intent of Act 127. *See* Pa. Regulatory Review Act, 71 P.S. §§ 745.1 - 745.15; *see also* Pa. Commonwealth Documents Law, 45 P.S. §§ 1102 - 1208. Without clear binding norms, the risk of selective and discriminatory prosecution is greatly increased.

³ The Supreme Court of Pennsylvania has held that, “if the General Assembly defines words that are used in a statute, those definitions are binding.” *Pa. Associated Builders & Contractors, Inc. v. Dep’t of Gen. Servs.*, 932 A.2d 1271, 1278 (Pa. 2007); *see also Lower Swatara Twp. v. Pa. Labor Relations Bd.*, 208 A.3d 521 (Pa. Cmwlth. 2019).

⁴ 58 P.S. § 801.102 (emphasis added) defines a pipeline as:

21. Act 127 defines “Federal pipeline safety laws” as:

“Federal pipeline safety laws.” The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts.

Id.

22. I&E contends that Westover is a “pipeline operator” as defined in Act 127 because Westover owns or operates a “master meter system” as defined by the Federal pipeline safety laws. The Federal pipeline safety laws define a “master meter system” as:

... a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, *where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system.* The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents[.]

49 CFR § 191.3 (emphasis added).

23. The Federal pipeline safety laws define an “operator” as “a person who engages in the transportation of gas.” *Id.*

24. The Federal pipeline safety laws further define “transportation of gas” as “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, *in or affecting interstate or foreign commerce.*” *Id.* (emphasis added).

25. Westover does not gather, transmit or store gas. Therefore, Westover’s distribution of gas by pipeline must be in or must affect interstate or foreign commerce in order for Westover to be engaged in the “transportation of gas.” If Westover is not engaged in the transportation of gas, it is not an “operator” as defined by the Federal pipeline safety laws.

A part of the physical facilities through which gas or hazardous liquids move in transportation, including a pipe valve and other appurtenance attached to the pipe, compressor unit, metering station, regulator station, delivery station, holder and fabricated assembly. *The term only includes pipeline regulated by Federal pipeline safety laws.* The term does not include a pipeline subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

26. The Westover Facilities do not distribute gas by pipeline in or affecting interstate or foreign commerce.

a. Westover purchases gas in Pennsylvania from an NGDC. NGDCs are regulated by the Commission rather than by FERC pursuant to the Hinshaw Amendment, 15 U.S.C. § 717(c). Consequently, Westover's purchase of the gas is in intrastate commerce because an NGDC is considered to be an intrastate gas pipeline facility pursuant to the Federal pipeline safety laws. 49 U.S.C. § 60101(a)(9) (defining an "intrastate gas pipeline facility" as a gas pipeline facility and gas transportation within a state that is not subject to FERC pursuant to 15 U.S.C. § 717).

b. Westover then transports the gas a short distance, entirely within Pennsylvania and on Westover's own property, and sells it to tenants located in Pennsylvania on Westover's property.

c. From beginning to end, Westover's purchase, transportation, and sale of the gas is entirely intrastate commerce.

27. Since Westover does not transport gas in or affecting interstate or foreign commerce, Westover is not engaged in the "transportation of gas" as defined in the Federal pipeline safety laws. Therefore, Westover is not an "operator" as defined in the Federal pipeline safety laws, and its Facilities are not "master meter systems" as defined in the Federal pipeline safety laws.

28. Westover is not a "pipeline operator" as defined in Act 127 because it does not own or operate equipment or facilities that are regulated under the Federal pipeline safety laws. The Commission therefore lacks authority to regulate Westover pursuant to Act 127.

29. There is also no federal jurisdiction over Westover under the negative implications of the Commerce Clause of the United States Constitution, also known as the Dormant Commerce Clause. The Natural Gas Act, including 15 U.S.C. § 717, was intended to fill a regulatory gap and define the nature of federal jurisdiction over interstate and intrastate commerce. *Pub. Utils. Comm'n of State of Cal. v. FERC*, 900 F.2d 269, 275 (D.C. Cir. 1990). This was a reaction to the United States Supreme Court's *ad hoc* and case-by-case definitions of federal jurisdiction over the gas industry under Dormant Commerce Clause cases. The field of federal jurisdiction under the Natural Gas Act is roughly the same as that determined by the Supreme Court in these Dormant Commerce Clause cases; however, the statute intended to make the lines between state and federal jurisdiction clearer. *Fed. Power Comm'n v. E. Ohio Gas Co.*, 338 U.S. 464, 467 (1950).

30. When assessing what constitutes an undue burden on interstate commerce under the Dormant Commerce Clause, courts engage in a balancing test and consider “legitimate state interests” against any burden on interstate commerce that such state-level regulation imposes. *See Arkansas Elec. Coop. Corp. v. Arkansas Pub. Serv. Comm'n*, 461 U.S. 375 (1983). Further, the United States Supreme Court has stated that “the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the State.” *Id.* at 377. Here, while the analysis under the Natural Gas Act already excludes natural gas systems similar to Westover's (as discussed above), any purported balancing test under the Dormant Commerce Clause would yield the same result because the tenuous connection to interstate commerce by Westover means that any unintended burden on interstate commerce would be minimal. Because Westover engages entirely in intrastate commerce, the Commonwealth has a greater interest than the federal government in regulating its purely intrastate commerce, which outweighs the minimal

effect on interstate commerce even where the Pennsylvania General Assembly has knowingly chosen not to regulate.

31. The Pennsylvania General Assembly, in enacting Act 127, could have expressly included intrastate natural gas systems, such as Westover's, within the Commission's enforcement jurisdiction – but it did not.⁵ Instead, the General Assembly limited the Commission's enforcement jurisdiction to pipeline operators who are subject to Federal pipeline safety laws. Westover is not such an entity because Westover is not engaged in the “transportation of gas” as defined in the Federal pipeline safety laws.

32. The U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration has issued several letters interpreting the definition of “master meter system” in 49 CFR § 191.3. **Appendix 16.** None of those letters addresses the question of whether the operator of the master meter system was engaged in the gathering, transmission, or distribution of gas “in or affecting interstate or foreign commerce.” As a result, they are of limited usefulness in addressing Westover's situation. In any event, those non-legal opinion letters merely reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification; they do not create legally-enforceable rights or obligations. They certainly do not constitute precedent binding on the Commission or upon Pennsylvania's appellate courts in interpreting the specific language of Act 127.

33. Construing 49 CFR § 191.3 as applying to landlords such as Westover would effectively give the PUC jurisdiction over every landlord in Pennsylvania that operates a natural gas master meter system to provide gas to its tenants. There are likely hundreds, perhaps thousands, of such systems. If the General Assembly intended to effect such a dramatic change in

⁵ See *Feingold, supra* (regarding limitations on Commission powers).

law and public policy, by giving the Commission authority to regulate these entities under Act 127, it would have said so explicitly. The fact that it did not do so reflects the General Assembly's intent that these entities would not be regulated by the Commission.

34. I&E's November 22, 2021 letter, at p. 2 ¶ 1, argues that Westover is subject to Commission jurisdiction because the Commission has long been certificated by the Secretary of the U.S. Department of Transportation to enforce the Federal pipeline safety laws. *See* I&E's November 22, 2021 letter, at p. 2 ¶ 3 ("Intrastate gas master meter systems have for decades been subject to pipeline safety regulation either through PHMSA or an authorized State."). This argument undermines, rather than supports, I&E's position because it concludes that the Commission's jurisdiction over Westover does not stem from Act 127 at all, but instead preceded Act 127.

35. I&E's November 22, 2021 correspondence fails to explain how Westover is engaged in the "transportation of gas" as defined in the Federal pipeline safety laws. If Westover is not engaged in the "transportation of gas" as so defined, it is not an "operator" of a "master meter system."⁶

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") respectfully requests that the Commission declare that:

⁶ In addition, as authority for the Commission's jurisdiction over Westover, I&E's November 22, 2021 correspondence cites a case (*Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. Brookhaven MHP Management LLC, et al.*, Docket No. C-2017-2613983 (Order entered Aug. 23, 2018)) in which the Commission approved a settlement. That case is inapposite because the parties did not contest the Commission's jurisdiction and the Commission did not explicitly address its jurisdiction

(a) the Westover Facilities are not subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.*; and,

(b) Westover's registration with the Commission as an Act 127 pipeline operator is null and void.

Respectfully submitted,



David P. Zambito, Esq. (PA ID # 80017)
Jonathan P. Nase, Esq. (PA ID # 44003)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
E-mail: dzambito@cozen.com
E-mail: jnase@cozen.com

Date: December 13, 2021

VERIFICATION

I, Alexander Stefanelli, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 12/13/2021

Alexander Stefanelli

APPENDIX 1



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

July 28, 2021

Via Electronic Mail Only

Mr. Alexander Steffanelli
Westover Property Management Company, L.P.
d/b/a Westover Companies
550 American Avenue
Suite 1
King of Prussia, PA 19406
alex@westovercompanies.com

Re: Investigation of Westover Property Management Company, L.P. d/b/a Westover Companies Relating to Possible Violations of the Gas and Hazardous Liquids Pipelines Act and Federal Pipeline Safety Laws and Regulations
Bp8CaseID# 3025977
I&E Letter

Dear Mr. Steffanelli,

As you are aware, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) has been investigating Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) pursuant to Section 801.501 of the Gas and Hazardous Liquids Pipelines Act (“Act 127”), 58 P.S. § 801.501, and Section 3.113 of the Commission’s regulations, 52 Pa. Code § 3.113. This investigation focuses on determining which apartment complexes owned or managed by Westover meet the definitions of “pipeline operator” and “master meter system” set forth in 58 P.S. § 801.102 and 49 CFR § 191.3, respectively, such that compliance with Federal pipeline safety laws and regulations, including 49 CFR Part 192, is obligatory.

Also, as you are aware, I&E issued a Warning Letter dated June 2, 2021, to prompt Westover’s compliance with Act 127 by, *inter alia*, registering as a pipeline operator and developing and implementing an Operations and Maintenance (“O&M”) Manual required by 49 CFR Part 192, prior to I&E’s initiation of a formal enforcement action that would seek civil penalties. The assertions set forth in the Warning Letter were based on a preliminary determination by the I&E Safety Division that Westover operates a regulated master meter system at Jamestown Village Apartments in Willow Grove, PA.

Subsequently, by email dated June 4, 2021, I&E clarified its Warning Letter to indicate that any O&M Manual that is developed by or on behalf of Westover should encompass **all** jurisdictional master meter systems operated by Westover in any of the apartment complexes that it manages in Pennsylvania.

Thereafter, on June 28, 2021, Westover registered only Jamestown Village Apartments, LP as an Act 127 pipeline operator and reported zero jurisdictional intrastate pipeline miles. On July 10, 2021, Westover provided a draft O&M Manual to I&E that included the Jamestown Village Apartments and not any other Westover apartment complex in Pennsylvania.

On July 15, 2021, the I&E Safety Division inspected Westover's records and scheduled a follow-up inspection for August 24, 2021. Prior to the August 24, 2021 inspection, the I&E Safety Division expects Westover to complete various tasks and prepare certain documents for inspection by I&E. The following items are to be completed and electronically provided to the undersigned **on or before August 9, 2021**:

1. Compile and provide a list of all Westover properties in Pennsylvania with a jurisdictional master meter system;
2. Provide a list of all Westover emergency contacts, including the names of individuals and mobile and office numbers that can be contacted on a 24/7 basis; and
3. File an Act 127 pipeline operator registration or registrations that include all jurisdictional master meter systems in Pennsylvania and provide a copy of the filing(s).

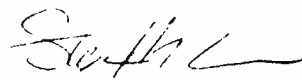
The following items are to be completed and presented to the I&E Safety Division **at the inspection scheduled for August 24, 2021**:

4. Develop and implement an O&M plan for all jurisdictional master meter locations in Pennsylvania and have ready for inspection a complete manual;
5. Develop a map of all jurisdictional master meter locations in Pennsylvania that shows gas mains and facilities; and
6. Develop and implement an Operator Qualification Plan.

A failure to comply with the above-listed items will subject Westover to prosecution that will seek the imposition of civil penalties.

Thank you for your immediate attention to this important matter.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 772-8839
stwimer@pa.gov

cc: Michael L. Swindler, I&E Deputy Chief Prosecutor (*via e-mail only*)
Kayla L. Rost, I&E Prosecutor (*via e-mail only*)
Robert D. Horensky, Manager - Safety Division (*via e-mail only*)

APPENDIX 2



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

IN REPLY PLEASE
REFER TO OUR FILE

February 3, 2021

REFERENCE:
NC-77-20
IREF: 13663

VIA EMAIL DELIVERY

Alexander Steffanelli, CFO
Westover Company
2501 Maryland Road
Willow Grove, PA 19090

Dear Mr. Steffanelli:

On December 2, 2020 Pennsylvania Public Utility Commission's Pipeline Safety Engineer S. Orr and Supervisor T. Cooper Smith completed inspections of facilities and/or records on Westover Companies in Willow Grove, PA. As a result of the inspection, the Pipeline Safety Section of the Pennsylvania Public Utility Commission has discovered that Westover Company is in violation of the following federal and state regulations:

- (1) **49 CFR § 192.13 What general requirements apply to pipelines regulated under this part?**
 - (c) Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.
- (2) **49 CFR § 192.605 Procedural manual for operations, maintenance, and emergencies**
 - (a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least one each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Code Section	Inspector's Comments
§192.13(c)	Westover Companies does not have a manual required by Part 192
§192.605(a)	Westover Companies does not have a procedural manual for Operations, Maintenance, & Emergencies (O&M).

Mr. Orr and Ms. Cooper Smith conducted an Operations and Maintenance (O&M) inspections for the Westover Companies. During the inspection, it was discovered the Westover Companies does not have any written O&M plans as required by 49CFR Part 192.

Therefore, you are hereby requested to submit to this office in writing, on or before March 17, 2021, the following:

- 1) Develop and implement an Operations, Maintenance, and Emergency Response manual as required by 49CFR§192.
- 2) Develop a process to document and track all records required by these manuals and procedures.

This office is committed to ensuring that pipeline companies comply with the provisions of the Public Utility Code. Therefore, you are advised that, if you fail to comply with the above requests this office will initiate all appropriate enforcement actions pursuant to the Public Utility Code against the utility and its officers, agents and employees.

Yours truly,



Robert Horensky, Manager
Safety Division
Bureau of Investigation and Enforcement

RH:rb

PC: Richard Kanaskie, Director, I&E
Terri Cooper Smith, Fixed Utility Valuation Supervisor
Scott Orr, Fixed Utility Valuation Engineer



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

IN REPLY PLEASE
REFER TO OUR FILE

March 30, 2021

REFERENCE:
NC-08-21
IREF:13651

VIA EMAIL DELIVERY

Alexander Steffanelli CFO
Westover Companies
2501 Maryland Road
Willow Grove, PA 19090

Dear: Mr. Steffanelli

During the calendar year 2020 and 2021 Pennsylvania Public Utility Commission’s Pipeline Safety Engineer, S. Orr has attempted to conduct inspections of facilities and/or records on Westover Companies in Willow Grove, PA. As a result of these inspections, the Pipeline Safety Section of the Pennsylvania Public Utility Commission has discovered that Westover Companies is in violation of the following federal and state regulations:

(1) 49 CFR §190.203 Inspections and Investigations

- (a) Officers, employees, or agents authorized by the Associate Administrator for Pipeline Safety, upon presenting appropriate credentials, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining the compliance of such persons with the requirements of 49 U.S.C. 60101 et seq., or regulations, or orders issued there under.

Code Section	Inspector’s Comments
§190.203(a)	Westover Companies is not responding to requests for inspections on records and facilities.

Westover Companies has been identified as a master meter operator in the Commonwealth of Pennsylvania. The Gas and Hazardous Liquids Pipelines Act (also known as “the Pipeline Act” or Act 127 of 2011) was signed by Governor Corbett on Dec. 22, 2011 and went into effect on February 20, 2012. This law expands the Commission’s authority to enforce federal pipeline safety laws as they relate to gas and hazardous liquids pipeline equipment and facilities within the Commonwealth of Pennsylvania.

On Feb. 16, 2012, the PUC adopted an Implementation Order at Docket M-2012-2282031. It establishes the Act 127 initiatives of creating a statewide registry for non-public utility gas and hazardous liquids pipeline equipment and facilities within the Commonwealth; conducting safety inspections to enforce Federal pipeline safety laws on certain classifications of pipeline; and assessing entities for the costs.

ACT 127 gives the Bureau of Investigation and Enforcement(I&E) authority to enforce federal regulations found under 49 CFR Part 190, 191, and 192 on pipeline operators in the Commonwealth of Pennsylvania. Specifically, 49 CFR Part 190.203(a) gives I&E Safety Division access to inspect records and facilities owned by the company. I&E Pipeline Safety inspectors met with Westover Companies in December 2020. At that time, an inspector discussed the requirements that the company would need to follow in operating their gas system after the meter with PECO. Attempts were made on December 17, December 24, and December 30, 2020 and January 11 and January 14, 2021 to schedule follow up inspections and review records and procedures with no response received back from the company.

This letter is to serve as notice of Westover Companies responsibility to respond to the request for meetings and inspections. Continued failure of response by Westover Companies will result in the Bureau of Investigation and Enforcement Safety Division in taking legal action against the company including possibly civil penalties. Westover has yet to respond in writing to NC 77-20 dated February 2, 2021 and was due by March 17,2021

Therefore, you are hereby requested to submit to this office, in writing, on or before April 29, 2021, the following:

- 1) Respond to the request of the inspector to schedule inspections on Westover Companies records and facilities.
- 2) Provide a written response to NC 77-20.

This office is committed to ensuring that pipeline companies comply with the provisions of the Public Utility Code. Therefore, you are advised that, if you fail to comply with the above requests this office will initiate all appropriate enforcement actions pursuant to the Public Utility Code against the utility and its officers, agents and employees.

Yours truly,



Robert Horensky, Manager
Safety Division
Bureau of Investigation and Enforcement

RH:rb

PC: Richard Kanaskie, Director, I&E
Terri Cooper Smith, Pipeline Safety Supervisor
Scott Orr, Fixed Utility Valuation Engineer II

APPENDIX 3



November 4, 2021

VIA EMAIL (stwimer@pa.gov)

David P. Zambito

Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

Stephanie M. Wimer, Esq.
Senior Prosecutor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Investigation of Westover Property Management Company, L.P. d/b/a Westover Companies Relating to Possible Violations of the Gas and Hazardous Liquids Pipelines Act and Federal Pipeline Safety Laws and Regulations; Bp8CaseID# 3025977

Westover Property Management Company, L.P. d/b/a Westover Companies' Response to the July 28, 2021 Letter from the Bureau of Investigation and Enforcement

Dear Senior Prosecutor Wimer:

This correspondence is in response to your letter dated July 28, 2021 regarding the investigation by the Bureau of Investigation and Enforcement ("I&E") into whether the Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") is in compliance with the Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.* ("Act 127"). You indicated that "[t]his investigation focuses on determining which apartment complexes owned or managed by Westover meet the definitions of "pipeline operator" and "master meter system" set forth in 58 P.S. § 801.102 and 49 CFR § 191.3, respectively, such that compliance with Federal pipeline safety laws and regulations, including 49 CFR Part 192, is obligatory."

For the reasons set forth below, Westover respectfully submits that its natural gas systems are not subject to regulation by the Pennsylvania Public Utility Commission ("Commission").

I. FACTS

Westover owns several apartment complexes in Pennsylvania. In each complex, Westover purchases gas at a point in Pennsylvania from a Commission-regulated public utility (a natural gas distribution company ("NGDC")) and distributes it to the tenants in the complex, charging them for the gas through a meter or rents in compliance with the requirements of 66 Pa. C.S. § 1313 (regarding "Price upon resale of public utility services"). Westover controls who may be a tenant through leases. All of Westover's gas facilities are located on Westover's property, and all of Westover's natural gas customers rent their apartments from Westover. To date, Westover has spent in excess of \$70,000 in response to the activities of I&E field inspectors.

II. WESTOVER'S NATURAL GAS SYSTEMS ARE NOT SUBJECT TO REGULATION BY THE COMMISSION

As an agency created by the General Assembly, the Commission has only the powers given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The question therefore is whether the Commission has authority to regulate Westover's natural gas systems.

A. The Commission does not have Authority to Regulate Westover's Natural Gas Systems Pursuant to 52 Pa. Code § 59.33

Commission regulations at 52 Pa. Code § 59.33 state that the Commission adopts, as the minimum safety standards for all natural gas and hazardous liquid public utilities, the safety standards found in 49 U.S.C. §§ 60101-60503 and 49 CFR Parts 191-193, 195 and 199. Westover, however, is not a public utility. It is not providing natural gas to the public for compensation; it is only providing gas to tenants of its properties, whom it selects by contract. *Drexelbrook Associates v. Pa. Pub. Util. Comm'n*, 418 Pa. 430, 212 A.2d 237 (1965) (holding that a landlord was not subject to Commission jurisdiction where the landlord-tenant contractual relationship established the only persons who could demand utility service). Therefore, the Commission does not have authority to regulate Westover's natural gas systems pursuant to this regulation.

B. The Commission does not have Authority to Regulate Westover's Natural Gas Systems Pursuant to Act 127

In 2011, the General Assembly enacted Act 127 in response to the growth of Marcellus Shale in Pennsylvania. In pertinent part, Section 501(a) of Act 127, 58 P.S. § 801.501(a), gives the Commission the general administrative authority to supervise and regulate "pipeline operators" within this Commonwealth who are subject to Federal pipeline safety laws. The General Assembly also empowered the Commission to adopt regulations, consistent with the Federal pipeline safety laws, but the Commission -- after a decade -- has not promulgated regulations implementing Act 127 or specifically defining its interpretation of the limits of its powers under Act 127.¹

Act 127 gives the Commission authority to regulate Westover's natural gas systems only if Westover is a pipeline operator. A "pipeline operator" is defined as:

"Pipeline operator." A person that owns or operates equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under ***Federal pipeline safety laws***. The term does not include a public utility or an ultimate consumer who owns a service line on his real property.

¹ Under the Pennsylvania regulatory review process, interested parties would have had an opportunity to provide comments on the appropriate implementation of Act 127 and binding norms on all similarly-situated entities could have been developed. Moreover, the Pennsylvania General Assembly would have had an opportunity to review the Commission regulations and assess consistency with the legislative intent of Act 127. See Pa. Regulatory Review Act, 71 P.S. §§ 745.1 - 745.15; see also Pa. Commonwealth Documents Law, 45 P.S. §§ 1102 - 1208. Without clear binding norms, the risk of selective and discriminatory prosecution is greatly increased.

58 P.S. § 801.102 (“Definitions”) (emphasis added).² The definition of “pipeline” in Act 127 reiterates that Act 127 only pertains to pipelines regulated by the Federal pipeline safety laws.

Act 127 defines “Federal pipeline safety laws” as:

“Federal pipeline safety laws.” The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts.

Id.

I&E is investigating whether Westover is a “pipeline operator” as defined in Act 127 because it owns or operates a “master meter system,” which is allegedly regulated under the Federal pipeline safety laws. The Federal pipeline safety laws define a master meter system as:

... a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the **operator** purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents[.]

49 CFR § 191.3 (emphasis added). An operator, in turn, is defined as “a person who engages in the transportation of gas.” *Id.* Finally, the transportation of gas is defined as “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, **in or affecting interstate or foreign commerce.**” *Id.* (emphasis added).

Westover does not gather, transmit or store gas. Therefore, Westover’s distribution of gas by pipeline must be in or must affect interstate or foreign commerce in order for Westover to be an operator of a master meter system.

Westover’s natural gas systems clearly do not distribute gas by pipeline in interstate or foreign commerce. Westover purchases gas in Pennsylvania from an Commission-regulated NGDC. NGDCs are regulated by the Commission rather than by FERC (pursuant to the Hinshaw Amendment, 15 U.S.C. § 717(c)). Consequently, Westover’s purchase of the gas is in intrastate commerce because an NGDC is considered to be an intrastate gas pipeline facility pursuant to the Federal pipeline safety laws. 49 U.S.C. § 60101(a)(9) (defining an “intrastate gas pipeline facility” as a gas pipeline facility and gas transportation within a state that is not subject to FERC pursuant to 15 U.S.C. § 717). Westover transports the gas a short distance and sells it to tenants located in Pennsylvania and located on Westover’s property. From beginning to end, Westover’s purchase, transportation, and sale of the gas is entirely intrastate commerce. Consequently, Westover is not an “operator” as defined in the Federal pipeline safety laws, its system is not a “master meter system” as defined in the Federal pipeline safety laws, and Westover is not a “pipeline operator” as defined in Act 127 because it does not own or operate equipment or facilities

² The Supreme Court of Pennsylvania has held that, “if the General Assembly defines words that are used in a statute, those definitions are binding.” *Pa. Associated Builders & Contractors, Inc. v. Dep’t of Gen. Servs.*, 932 A.2d 1271, 1278 (Pa. 2007); see also *Lower Swatara Twp. v. Pa. Labor Relations Bd.*, 208 A.3d 521 (Pa. Cmwlth. No. 1276 C.D. 2018, filed May 2, 2019).

that are regulated under the Federal pipeline safety laws. The Commission therefore lacks authority to regulate Westover pursuant to Act 127.

There is also no federal jurisdiction over Westover under the negative implications of the Commerce Clause of the United States Constitution, also known as the Dormant Commerce Clause. The Natural Gas Act, including 15 U.S.C. § 717, was intended to fill a regulatory gap and define the nature of federal jurisdiction over interstate and intrastate commerce. *Pub. Utils. Comm'n of State of Cal. v. FERC*, 900 F.2d 269, 275 (D.C. Cir. 1990). This was a reaction to the United States Supreme Court's *ad hoc* and case-by-case definitions of federal jurisdiction over the gas industry under Dormant Commerce Clause cases. The field of federal jurisdiction under the Natural Gas Act is roughly the same as that determined by the Supreme Court in these Dormant Commerce Clause cases; however, the statute intended to make the lines between state and federal jurisdiction clearer. *Fed. Power Comm'n v. E. Ohio Gas Co.*, 338 U.S. 464, 467 (1950).

Today, when assessing what constitutes an undue burden on interstate commerce under the Dormant Commerce Clause, courts engage in a balancing test and consider "legitimate state interests" against any burden on interstate commerce that such state-level regulation imposes. *See Arkansas Elec. Coop. Corp. v. Arkansas Pub. Serv. Comm'n*, 461 U.S. 375 (1983). Further, the Supreme Court has stated that "the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the State." *Id.* at 377. Here, while the analysis under the Natural Gas Act already excludes natural gas systems similar to Westover's (as discussed above), any purported balancing test under the Dormant Commerce Clause would yield the same result because the tenuous connection to interstate commerce by Westover means that any unintended burden on interstate commerce would be minimal. Because Westover engages entirely in intrastate commerce, the Commonwealth has a greater interest than the federal government in regulating its purely intrastate commerce, which outweighs the minimal effect on interstate commerce even where the Pennsylvania General Assembly has knowingly chosen not to regulate.

The Pennsylvania General Assembly, in enacting Act 127, could have expressly included intrastate natural gas systems, such as Westover's, within the Commission's enforcement jurisdiction – but it did not.³ Instead, the General Assembly limited the Commission's enforcement jurisdiction to pipeline operators who are subject to Federal pipeline safety laws. Westover is not such an entity because federal law does not, under Dormant Commerce Clause jurisprudence, extend to Westover's purely intrastate activity.

We have reviewed several letters from the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration interpreting the definition of "master meter system" in 49 CFR § 191.3. None of those letters addresses the question of whether the operator of the master meter system was engaged in or affecting interstate or foreign commerce. As a result, they are of limited usefulness in addressing Westover's situation. In any event, those non-legal opinion letters merely reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification; they do not create legally-enforceable rights or obligations. They certainly do not constitute precedent binding on the Commission or upon Pennsylvania's appellate courts in interpreting Act 127.

³ *See Feingold, supra* (regarding limitations on Commission powers).

Finally, construing 49 CFR § 191.3 as applying to landlords such as Westover would effectively give the PUC jurisdiction over every landlord in Pennsylvania that operates a natural gas master meter system to provide gas to its tenants. There are hundreds, perhaps thousands of such systems. If the General Assembly intended to effect such a dramatic change in law, by giving the Commission authority to regulate these entities in Act 127, it would have said so. The fact that it did not do so reflects the General Assembly's intent that these entities would not be regulated by the Commission.

III. Conclusion

Westover appreciates the opportunity to address I&E's concerns about whether Westover's natural gas systems are in compliance with Act 127. In the interest of resolving this matter without the need for litigation, I would welcome the opportunity to discuss Westover's position after you have had an opportunity to review this response and conduct your own research on what constitutes an "operator" of a master meter system that operates exclusively in intrastate commerce.

Thank you for your consideration of this matter. Please do not hesitate to contact me with any question.

Sincerely,

Cozen O'Connor



Counsel for *Westover Property Management Company, L.P. d/b/a Westover Companies*

DPZ:kmg

cc: Alexander Stefanelli, CFO, Westover Companies
Peter Quercetti, Vice President Operations Management, Westover Companies
Richard A. Kanaskie, Esq., Director, I&E
Michael L. Swindler, Esq., Deputy Chief Prosecutor, I&E

APPENDIX 4



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 22, 2021

Via Electronic Mail Only

David P. Zambito, Esq.
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101

Re: Investigation of Westover Property Management Company, L.P. d/b/a
Westover Companies Relating to Possible Violations of the Gas and
Hazardous Liquids Pipelines Act and Federal Pipeline Safety Laws and
Regulations
Bp8CaseID# 3025977
I&E Letter

Dear Attorney Zambito,

The Bureau of Investigation and Enforcement (“I&E”) is in receipt of your letter dated November 4, 2021, wherein you claim that the natural gas systems of your client, Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), are not subject to pipeline safety regulation by the Pennsylvania Public Utility Commission (“Commission”). For the reasons set forth herein, I&E disagrees with Westover’s position.

I&E continues to maintain that the pipeline facilities at some, but not all, Pennsylvania apartment complexes owned or managed by Westover constitute “master meter systems” as defined in 49 CFR § 191.3 of the federal pipeline safety regulations and, consequently, are subject to Commission oversight through the Gas and Hazardous Liquids Pipelines Act (“Act 127”), 58 P.S. §§ 801.101, *et seq.* Therefore, I&E’s position that Westover is a “pipeline operator” as defined in Act 127, Section 801.102 remains unchanged. 58 P.S. § 801.102. I&E has never alleged that Westover is a public utility.

Your claim that Westover’s transportation of gas by pipeline does not *affect* interstate or foreign commerce and therefore renders Westover not to be subject to the federal pipeline safety regulations is incorrect. The minimum federal pipeline safety standards apply broadly to both interstate and intrastate pipelines through the federal Pipeline Safety Act, 49 U.S.C. §§ 60101-60143 (“PSA”).

Pursuant to the PSA, States may assume responsibility for regulating intrastate pipeline facilities by submitting an annual certification to the Secretary of the U.S. Department of Transportation pursuant to 49 U.S.C. § 60105. A State that has submitted a certification under Section 60105(a) of the PSA may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum federal pipeline safety standards. 49 U.S.C. § 60104. Pennsylvania, through the Commission's I&E Safety Division, is certified to regulate the safety of intrastate pipelines.

The Pennsylvania General Assembly adopted the federal pipeline safety laws and regulations, as well as all amendments thereto, as the safety standards for non-public utility pipeline operators in Pennsylvania by enacting Act 127. *See* 58 P.S. § 801.302. Additionally, the Pennsylvania General Assembly authorized the Commission to supervise and regulate pipeline operators within Pennsylvania consistent with (but not more stringent than) Federal pipeline safety laws. 58 P.S. § 801.501.


As it relates to Westover, the regulation of intrastate master meter systems fits squarely within the purview of Section 191.3 of the federal pipeline safety regulations, 49 C.F.R. § 191.3. Intrastate gas master meter systems have for decades been subject to pipeline safety regulation either through PHMSA or an authorized State. Since Act 127 became effective, the Commission has enforced violations of Act 127 on pipeline operators operating master meter systems in Pennsylvania. *See Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. Brookhaven MHP Management LLC, et al.*, Docket No. C-2017-2613983 (Order entered August 23, 2018).

Westover's position is contrary to well-established law and the sound policy of the PSA, which is to provide adequate protection against risks to life and property posed by pipeline transportation and facilities.

I&E has attempted for nearly one-year to amicably work with Westover to aid Westover into becoming compliant with the minimum federal pipeline safety standards. Westover's unregulated master meter systems in their current state pose a risk to Westover's residents, employees, and the general public. Should Westover refuse to submit to the Commission's oversight for pipeline safety purposes, I&E will initiate an enforcement action and seek the imposition of civil penalties pursuant to 58 P.S. § 801.502.

Please advise by **December 13, 2021** whether Westover will submit to the Commission's jurisdiction pursuant to Act 127 and finalize the steps necessary to fully comply with the federal pipeline safety regulations. Should Westover respond in the negative and continue to disregard its responsibilities under Act 127, I&E will proceed with formal enforcement action and prepare and file a Formal Complaint.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor, I&E

cc: *(via email only)*
Michael L. Swindler, Esq., I&E Deputy Chief Prosecutor
Kayla L. Rost, Esq., I&E Prosecutor
Terri C. Cooper Smith, Supervisor – Safety Division
Scott Orr, Engineer – Safety Division

APPENDIX 16



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

JAN 27 2020

Ms. Stephanie M. Wimer
Senior Prosecutor
Pennsylvania PUC
P.O. Box 3265
Harrisburg, PA 17105-3265

Dear Ms. Wimer:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated October 17, 2019, you requested an interpretation of the pipeline safety regulations in 49 Code of Federal Regulations (CFR) Parts 191 and 192. Specifically, you requested clarification on the definition of “transportation of gas” under § 191.3.

You stated the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement (I&E) Safety Division is currently investigating a natural gas pipeline incident that happened on September 10, 2018, in Center Township, Beaver County, Pennsylvania. The incident occurred on the Revolution Pipeline, which is made of carbon steel and is 24 inches in diameter. The pipeline runs approximately 42 miles from a compressor station in Butler County, Pennsylvania to a cryogenic processing plant in Washington County, Pennsylvania.

You stated the Revolution Pipeline is owned and operated by Energy Transfer Company (ETC), OPID 32099, and construction of the pipeline was completed in or about March 2018. When the incident occurred on September 10, 2018, the line was being brought up to optimal operating pressure and the valve serving the cryogenic processing plant was closed. With that valve closed, the cryogenic processing plant was unable to receive natural gas. You stated that on the date of the incident, ETC had not reached the deadline to register the Revolution Pipeline with the Commission, because registration of pipeline miles for the 2018 calendar year was due on March 31, 2019.

You stated that on the date of the incident, the Revolution Pipeline was in the commissioning phase and, therefore, not all valves along the pipeline were open for packing the line and, as noted above, the valve at the cryogenic processing plant was shut such that the plant could not receive gas.

You ask PHMSA’s responses for the following questions:

Question 1: Is packing the pipeline with product during the commissioning phase, where the line is in the process of being brought up to optimal operating pressure, remote

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations are not generally applicable, do not create legally-enforceable rights or obligations, and are provided to help the specific requestor understand how to comply with the regulations.

valves are disengaged and the downstream valve to the cryogenic processing plant is closed, still deemed the "transportation of gas?"

Response to Question 1:

Yes, once a pipeline has gas to flow into it, regardless of flow conditions and pressurization, the line is in-service and deemed to be transporting gas.

Section 191.3 defines transportation of gas as:

Transportation of gas means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.

Placing gas into an empty pipeline during the commissioning phase, and adding pressure into it is "transportation of gas."

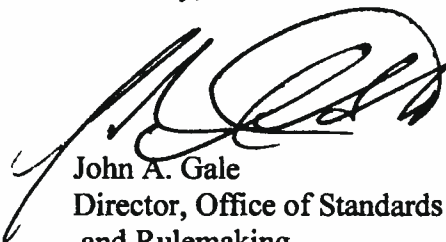
Question 2: If Question 1 is answered in the negative, does PHMSA agree that the Revolution Pipeline was not jurisdictional to the Commission at the time of the September 10, 2018 incident?

Response to question 2:

The answer to Question 1 is in the affirmative. Therefore, the Revolution Pipeline was a regulated pipeline at the time of the incident. It is important to note that the Revolution Pipeline was also subject to the pipeline safety regulations before the line began transporting gas. Part 192 of the pipeline safety regulations prescribes the minimum safety requirements for pipeline facilities *and* the transportation of gas. *See*, 49 C.F.R. § 192.1. The pipeline safety regulations apply to the materials, design, construction and testing of the Revolution Pipeline before the facility transported gas.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking



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

IN REPLY PLEASE
REFER TO OUR FILE

October 17, 2019

Via Electronic Mail and First-Class Mail

Mr. Shane Kelley
Director, Standards and Rulemaking Division
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590
infocntr@dot.gov

Re: Request for Written Regulatory Interpretation

Dear Mr. Kelley:

This letter represents a request from the Safety Division of the Pennsylvania Public Utility Commission's ("Commission") Bureau of Investigation and Enforcement ("I&E") for an interpretation of the Pipeline and Hazardous Materials Safety Administration ("PHMSA") pipeline safety regulations under 49 CFR § 191.3 related to the definition of "transportation of gas."

The I&E Safety Division participates in PHMSA's State Pipeline Safety Program. Through its agreement with PHMSA and participation in the Program, the I&E Safety Division has assumed the safety responsibilities of intrastate pipeline facilities in Pennsylvania over which it has jurisdiction as authorized by state law.

Pursuant to Pennsylvania's Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.*, the Commission has authority to regulate and supervise pipeline operators within Pennsylvania consistent with Federal pipeline safety laws. 58 P.S. § 801.501(a). Pipeline operators are defined as "a person that owns or operates equipment or facilities in this Commonwealth *for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under Federal pipeline safety laws.*" 58 P.S. § 801.102 (emphasis added). Pipeline operators are required to register with the Commission by March 31 of each year and report gathering, transmission and distribution pipeline mileage in class 1, 2, 3 and 4 locations for the preceding calendar year. *See* 58 P.S. § § 801.301(c)(1) and *Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators*, Docket No. M-2012-2282031 (Final Implementation Order entered February 17, 2012).

The PHMSA pipeline safety regulations define "operator" as a "person who engages in the *transportation of gas.*" 49 CFR §§ 191.3 and 192.3 (emphasis added). Moreover, "pipeline" means "all parts of those physical facilities through which *gas*

moves in transportation.” 49 CFR § 192.3 (emphasis added). “Pipeline facility” is defined as “new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the *transportation of gas* or in the treatment of *gas during the course of transportation.*” 49 CFR § 192.3 (emphasis added).

The I&E Safety Division is currently investigating a natural gas pipeline incident that happened on September 10, 2018 in Center Township, Beaver County, Pennsylvania. The incident occurred on the Revolution Pipeline, which is a twenty-four (24) inch carbon steel pipeline that was constructed between 2016 and 2018. The pipeline extends approximately forty-two (42) miles from a compressor station in Butler County, PA to a cryogenic processing plant in Washington County, PA. The Revolution Pipeline is owned and operated by Energy Transfer Company (“ETC”), OPID 32099.

Construction of the Revolution Pipeline was completed in approximately March of 2018. When the incident occurred on September 10, 2018, the line was being brought up to optimal operating pressure and the valve serving the cryogenic processing plant was closed. Thus, the cryogenic processing plant was unable to receive natural gas.

As of the date of the incident, ETC had not reached the deadline to register the Revolution Pipeline with the Commission pursuant to the Gas and Hazardous Liquids Pipelines Act as construction of the pipeline was only completed in March of 2018. Registration of pipeline miles for the 2018 calendar year was due on March 31, 2019.

On the date of the incident, the Revolution Pipeline was in the commissioning phase in that construction of the pipeline was complete but transportation had not started. Some, but not all, of the valves along the pipeline were open for packing the line and notably, the valve at the cryogenic processing plant was shut such that the plant could not receive gas. While it is clear that the Revolution Pipeline was constructed to transport gas by pipeline, it appears that such transportation had not yet been initiated. The PHMSA pipeline safety regulations, as mentioned above, appear to be predicated on a pipeline transporting gas, and not merely packing gas, in order for the regulations to apply to this incident.

I&E seeks an interpretation from PHMSA related to the definition of “transportation of gas,” which means “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.” 49 CFR § 191.3. The I&E Safety Division has classified the Revolution Pipeline as a gathering line and the incident occurred on an area of the pipeline that the I&E Safety Division classified as a class 3 gathering line. A “gathering line” is defined as a “pipeline that transports gas from a current production facility to a transmission line or main.” 49 CFR § 192.3. The I&E Safety Division’s classification of the Revolution Pipeline as a gathering line is also based upon the definition of “gathering line” in the American

Petroleum Institute's Recommended Practice 80, API RP80, incorporated by reference, Docket No. PHMSA-1998-4868; Amdt. 192-102, Final Rule April 14, 2006.¹

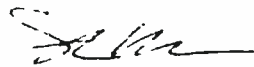
I&E's questions to PHMSA are as follows:

(1) Is packing the pipeline with product during the commissioning phase where the line is in the process of being brought up to optimal operating pressure, remote valves are disengaged and the downstream valve to the cryogenic processing plant is closed still deemed the "transportation of gas?"; and

(2) If Question No. 1 is answered in the negative, does PHMSA agree that the Revolution Pipeline was not jurisdictional to the Commission at the time of the September 10, 2018 incident?

Thank you for your consideration in this matter. Should you have any questions or seek further clarification or details with respect to this request, please do not hesitate to contact the undersigned.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor
PA Public Utility Commission
Bureau of Investigation and Enforcement
717.772.8839
stwimer@pa.gov

cc: Richard A. Kanaskie, Director, I&E (*via e-mail only*)
Michael L. Swindler, Deputy Chief Prosecutor, I&E (*via e-mail only*)
Michael Chilek, I&E Safety Division (*via e-mail only*)
Matthew Matse, I&E Safety Division (*via e-mail only*)

¹ Should PHMSA disagree with I&E's classification of the Revolution Pipeline as a gathering line, I&E would also request PHMSA's interpretation with respect to the pipeline's classification.



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

NOV 06 2017

Mr. Jonathan Heitzinger
Associate Director: Utility Services
Northern Arizona University
PO Box 6016
Flagstaff, AZ 86011-6016

Dear Mr. Heitzinger:

In a July 20, 2017 email to the Pipeline and Hazardous Materials Safety Administration (PHMSA), you requested an interpretation of 49 CFR Part 191. Specifically, you requested an interpretation on the requirements of § 191.3 as it relates to a master meter system.

You described your pipeline system as follows:

Northern Arizona University currently operates as a Master Meter System. We purchase natural gas from Unisource Energy Services through four master meters and distribute natural gas through our internally owned and operated distribution system to buildings within our property line. Currently the piping systems total 42,467 feet in length, at pressures ranging from 10 to 54 psi, serving 112 risers with 5 pressure reducing stations and are not interconnected. The buildings are owned and operated by NAU, owned by NAU with portions rented to external entities, or have land leased to external organizations where they own and operate the buildings to support the primary mission of the university. The external organizations include retail, food service, laboratories, offices, and student housing and are charged for natural gas consumption through meters or rent.

Upon review of interpretations PI-03-0101 and PI-73-030 it seems that a college or university is classified as a master meter system if there is underground piping and there are instances where the college or university is not the ultimate consumer. Additionally, there did not appear to be a limit to the size of systems, number of systems, or varying types of concessionaires or tenants. Based on the interpretations and regulations it seems that the Master Meter System definition does apply to NAU, and that our system is subject to the distribution regulations from 192-199 with the exceptions identified for a Master Meter System.

You asked whether the Northern Arizona University (NAU) falls under the Master Meter System definition of 49 CFR 191.3 and could operate the pipeline system under the exceptions for a master meter system. Specifically, you asked for clarification of whether the definition of a Master Meter System is limited by size or by the number of types of services.

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations do not create legally-enforceable rights or obligations and are provided to help the public understand how to comply with the regulations.

Section 191.3 defines a master meter system as:

[A] pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

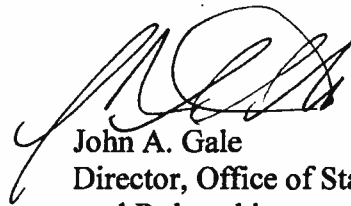
In PI-73-030, PHMSA stated that “If the college owned gas system provides gas to consumers such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety standards.” (Collins Interpretation, PI-73-030, issued Oct. 24, 1973).

In PI-03-0101, PHMSA explained that a college would not meet the definition of Master Meter System if it were only “using the gas delivered through its pipeline system to provide heat and hot water to campus buildings.” In that instance “the college would be the consumer of the gas.” It continued to explain, however, that if the college “gas system provides gas to consumers, such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation, the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety regulations.” In conclusion, the college would be considered a master meter system subject to the pipeline safety regulations if it provides gas to customers in addition to providing heat and hot water to campus buildings. (Bryant College Interpretation, PI03-0101, issued Feb. 14, 2003).

You have indicated that NAU's system is within the university's property line and distributes gas to buildings that are "owned and operated by NAU, owned by NAU with portions rented to external entities, or have land leased to external organizations where they own and operate the buildings to support the primary mission of the university. The external organizations include retail, food service, laboratories, offices, and student housing and are charged for natural gas consumption through meters or rent." NAU's gas distribution pipeline system therefore "supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents." Consequently, it meets the definition of a master meter system and NAU operates the pipeline system as a master meter system operator.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking

U.S Department of Transportation
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
Mail Stop: E24-455
1200 New Jersey Avenue, SE, Mail Stop: E24-455
Washington, DC 20590

Dear Sir/ Madam,

I am writing you to determine if Northern Arizona University (NAU) falls under the Master Meter System definition from Title 49 CFR 191.3 and should operate our distribution system under the exceptions for a master meter system under CFR 191-199. Specifically, I am seeking clarification of whether the definition of a Master Meter System is limited by size or by the number of types of services.

Northern Arizona University currently operates as a Master Meter System. We purchase natural gas from Unisource Energy Services through four master meters and distribute natural gas through our internally owned and operated distribution system to buildings within our property line. Currently the piping systems total 42,467 feet in length, at pressures ranging from 10 to 54 psi, serving 112 risers with 5 pressure reducing stations and are not interconnected. The buildings are owned and operated by NAU, owned by NAU with portions rented to external entities, or have land leased to external organizations where they own and operate the buildings to support the primary mission of the university. The external organizations include retail, food service, laboratories, offices, and student housing and are charged for natural gas consumption through meters or rent.

Upon review of interpretations PI-03-0101 and PI-73-030 it seems that a college or university is classified as a master meter system if there is underground piping and there are instances where the college or university is not the ultimate consumer. Additionally, there did not appear to be a limit to the size of systems, number of systems, or varying types of concessionaires or tenants. Based on the interpretations and regulations it seems that the Master Meter System definition does apply to NAU, and that our system is subject to the distribution regulations from 192-199 with the exceptions identified for a Master Meter System. Do you agree?

Sincerely,



Jon Heitzinger
Associate Director of Utility Services
Northern Arizona University



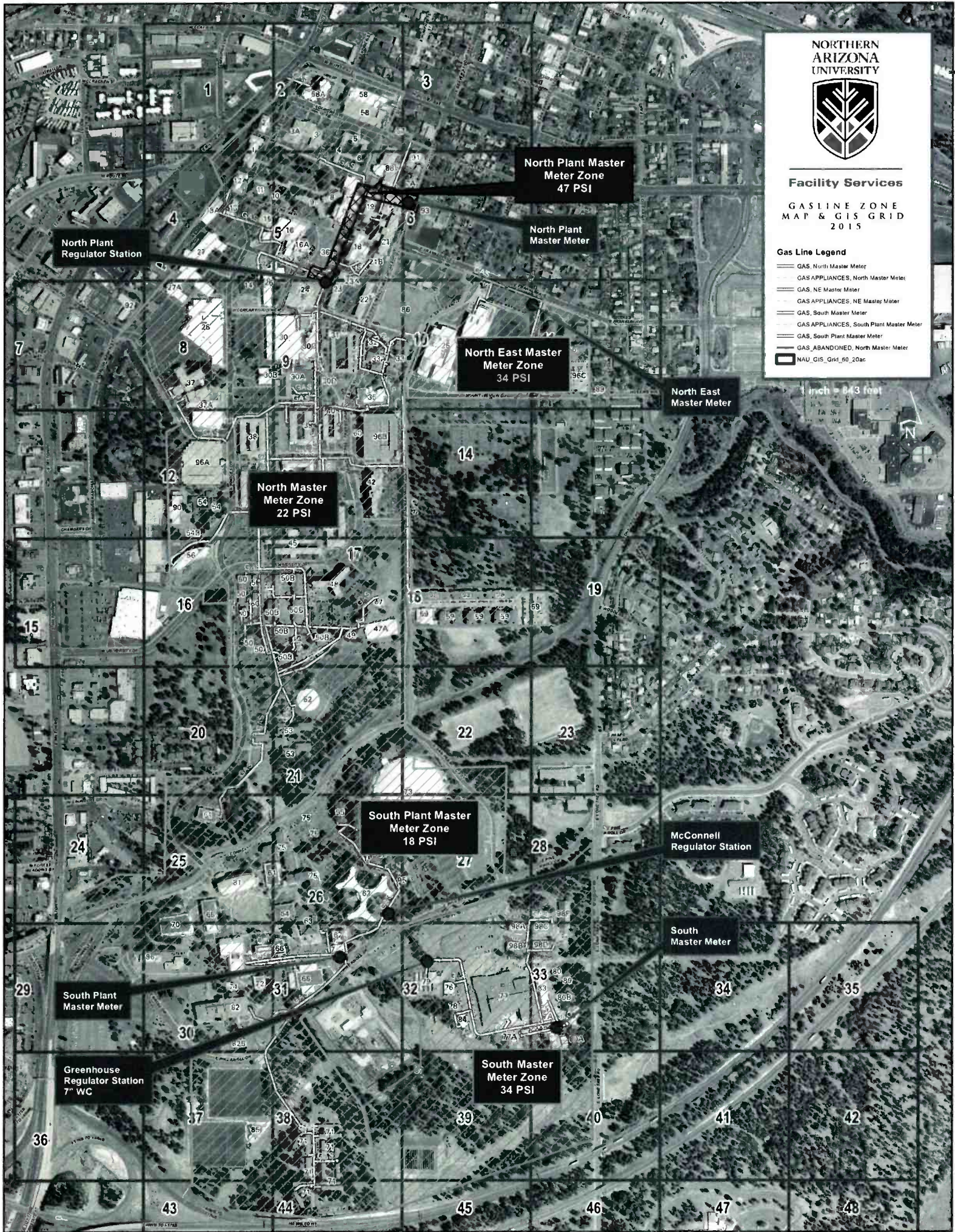
Facility Services

GASLINE ZONE MAP & GIS GRID 2015

Gas Line Legend

- GAS, North Master Meter
- GAS APPLIANCES, North Master Meter
- GAS, NE Master Meter
- GAS APPLIANCES, NE Master Meter
- GAS, South Master Meter
- GAS APPLIANCES, South Plant Master Meter
- GAS, South Plant Master Meter
- GAS APPLIANCES, North Master Meter
- NAU_GIS_Grid_60_20ac

1 inch = 243 feet



PI-03-0101

U.S. Department of Transportation
Research and Special Programs Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

February 14, 2003

Mr. Don A. Ledversis
Pipeline Safety Engineer
Rhode Island Division of Public Utilities & Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Dear Mr. Ledversis:

This is in response to your request of January 25, 2002, for an interpretation of the jurisdictional status of the campus gas distribution system operated by Bryant College in Smithfield, Rhode Island. The question is whether the campus gas piping system is a *Master Meter* System subject to the gas pipeline safety regulations in 49 CFR Parts 191 and 192. The college claims that this system does not meet the definition of *Master Meter* System because it only uses gas to provide heat and hot water to the campus buildings and does not resell the gas.

To conclude that the Bryant College gas distribution pipeline facilities are subject to safety regulation, we need to determine that the system is a pipeline facility and that the gas is being delivered to consumers who, directly or indirectly, pay for the gas. *Master Meter* System is defined in the pipeline safety regulations at 49 CFR § 191.3:

.. a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

Pipeline facility is defined in the pipeline safety regulations at 49 CFR § 192.3:

...new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

Bryant College's system is clearly a pipeline facility. It distributes gas through underground pipelines to campus buildings. It does not appear to meet the definition of *Master Meter* System because it is using the gas delivered through its pipeline system to provide heat and hot water to campus buildings. In this instance the college would be the consumer of the gas.

However, if the Bryant College gas system provides gas to consumers, such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety regulations. The Bryant College pipeline system would then be a *Master Meter* System.

In conclusion, the Bryant College gas distribution system is a *Master Meter* System subject to pipeline safety regulation under 49 CFR Parts 191 and 192 if it is providing gas to customers in addition to providing heat and hot water to campus buildings.

If you have any further questions about the pipeline safety regulations, please contact me at (202) 366-4565.

Sincerely,
Richard D. Huriaux, P.E.
Manager, Regulations
Office of Pipeline Safety

October 24, 1973

Mr. James H. Collins
Electrical-Mechanical Engineer
1310 Short Street
New Orleans, LA 70118

Dear Mr. Collins:

This is in response to your letter of September 25, 1973, to our Houston Regional Field Office which was forwarded to this office for reply.

Your letter indicates that the gas system concerned is an intermediate pressure (typically 25 psi) distribution system, serving the buildings on a college campus and owned by the college. Gas is supplied through a regulator-metering station from odorized mains of a gas service utility company. The system comprises approximately 4.5 miles of welded steel mains and service lines 5 inch to 1 1/2 inch diameter, serving 45 regulators at campus buildings, installed largely prior to 1970. Cathodic protection was installed in June 1971, monitored weekly at key points by owner-personnel, and checked so far at 16-month intervals by a corrosion engineer.

The gas system as described raises the jurisdictional question of whether the pipelines on the college campus constitute a master meter system subject to the Federal gas pipeline safety regulations or whether the college is the ultimate customer and therefore the lines in the college are not subject to the regulations. In order to assist you in making this determination, if the college owned gas system consumes the gas and provides another type of service such as heat or air conditioning, to the individual buildings, then the college is not engaged in the distribution of gas. In this instance the college would be the ultimate consumer, and the Federal pipeline safety standards would only apply to mains and service lines upstream of the meter.

If the college owned gas system provides gas to consumers such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety standards.

The answers to your specific questions are predicated on the assumption that this system is a distribution system subject to the jurisdiction of the Federal pipeline safety standards.

Question 1. Is an annual report on the monitoring and engineering check of the cathodic protection required to be made by the owner (the college) and if so on what Form?

Answer. Section 192.453 of the Code of Federal Regulations requires that all phases of work performed during design, installation, operation and maintenance including recordkeeping in connection with corrosion control be carried out by, or under the direction of a person qualified by experience and training in pipeline corrosion control methods.

An annual report to the Office of Pipeline Safety (OPS) on the monitoring and engineering check of the cathodic protection of a gas pipeline is not currently required and there are no Federal forms for this purpose. However §192.491 does require each operator to keep records in sufficient detail to demonstrate the adequacy of his corrosion control measures or that a corrosive condition does not exist.

Question 2. Is an annual report on leaks from any cause required to be made by the owner, and if so on what Form?

Answer. Section 191.11, 49 CFR requires that each operator of a distribution system submit an annual report on Department of Transportation Form DOT-F-7100.1-1 (copy enclosed) not later than February 15 for the preceding calendar year.

Your attention is also directed to Section 191.5, 49 CFR which sets out the requirements for telephonic notice of certain leaks by all gas operators.

Question 3. Is a gas detector leakage survey required by OPS regulations, per No. 192.723, and if so, per (b)(1) as in a business district at 1-year intervals, or per (b)(2) as a system outside of principal business areas, at intervals not exceeding 5-years. What Form is available for the report to OPS?

Answer. Your attention is directed to the language of paragraph (b) of Section 192.723, stating that the type and scope of the leakage control program must be determined by the nature of the operations and local conditions, but it must meet the minimum requirements of a gas detector survey (1) at least once a year in business districts, and (2) as frequently as necessary, but at least every 5 years, outside the principal business areas. In the interest of continuing safe pipeline operation it is contemplated by this section that whenever local conditions warrant it surveys will be conducted more frequently than once a year in business districts, and more frequently than every 5 years outside the municipal business areas. It follows that there may very well be instances in which conducting a survey only once a year in a particular business district, or only once in 5 years in a particular area outside of the principal business district would be considered inadequate. An evaluation of the potential hazard due to the nature of buildings such as those on campus and the specific condition and environment of the pipeline system could indicate that consideration to conducting leakage surveys "as frequently as necessary" would mean more frequently than the minimum interval of 5 years.

The answer to the recordkeeping and report filing requirement in question one also applies here.

Question 4. Are periodic tests of odorization per No. 192.625 required of the owner or is he covered by tests made by the supply utility company?

Answer. Section 192.625(f), 49 CFR, requires that each operator shall conduct periodic sampling of combustible gases to assure the proper concentration of odorant in accordance with this section. Based on the assumption that the college is operating a gas distribution system, periodic tests of odorization by the owner are required.

The enclosed literature includes Parts 190 and 192 which you requested.

We trust that this will clarify the matter for you. If we can be of further assistance to you, please let us know.

Sincerely,

\signed\

Joseph C. Caldwell
Director
Office of Pipeline Safety

Enclosures



January 25, 2022

VIA E-FILING

David P. Zambito

Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2 North – Filing Room
Harrisburg, PA 17120

**RE: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement
v. Westover Property Management Company, L.P. d/b/a Westover Companies;
Docket No. C-2022-3030251**

Answer and New Matter of Westover Companies

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission (“Commission”) is the Answer and New Matter of Westover Companies in the above-referenced matter. Copies have been served as shown on the attached Certificate of Service.

Please contact me if you have any question regarding this filing. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for *Westover Property
Management, L.P. d/b/a Westover
Companies*

DPZ:kmg
Enclosures

cc: Per Certificate of Service
Peter Quercetti, Vice President of Operations Management, Westover Companies
Alexander Stefanelli, CFO, Westover Companies

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
	:	Docket No. C-2022-3030251
v.	:	
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies	:	
	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Answer and New Matter of Westover Property Management Company, L.P. d/b/a Westover Companies**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL:

Stephanie M. Wimer, Esq.
Kayla L. Rost, Esq.
Michael L. Swindler, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
stwimer@pa.gov
karost@pa.gov
mswindler@pa.gov

*Counsel for Bureau of Investigation and
Enforcement*



David P. Zambito, Esquire
Counsel for *Westover Property Management, L.P.*
d/b/a Westover Companies

Date: January 25, 2022

VERIFICATION

I, Alexander Stefanelli, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 1/25/22

Alexander Stefanelli

VERIFICATION

I, Pete Quercetti, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 1/25/2022

Peter B Quercetti

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket No. C-2022-3030251
v.	:	
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.63, you are hereby notified that you have twenty (20) days from the service of the enclosed Answer and New Matter of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) to file a reply to the New Matter. All pleadings, such as a reply, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Westover, and where applicable the Administrative Law Judge presiding over the case.

File with:

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

With a copy to:

David P. Zambito, Esq. (PA ID #80017)
Jonathan P. Nase, Esq. (PA ID #44003)
Cozen O’Connor
17 North Second St., Suite 1410
Harrisburg, PA 17101



David P. Zambito
Counsel for
Westover Property Management Company, L.P.
d/b/a Westover Companies

Dated: January 25, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket No. C-2022-3030251
v.	:	
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

**ANSWER AND NEW MATTER OF
WESTOVER PROPERTY MANAGEMENT
COMPANY, L.P. D/B/A WESTOVER COMPANIES**

AND NOW COMES Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) pursuant to 52 Pa. Code § 5.61, to file this Answer and New Matter to the Formal Complaint (“Complaint”) filed by the Bureau of Investigation and Enforcement (“I&E”). Westover was served with the Complaint on January 5, 2022. For the reasons set forth below, PAWC respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) dismiss the Complaint.

ANSWER

I. Parties and Commission Jurisdiction

1. Admitted.
2. Admitted.
3. Admitted.

4. Admitted, but irrelevant. I&E claims that its authority over Westover stems from Act 127 of 2011, 58 P.S. §§ 801.101 *et seq.* (“Act 127”), not from its certification pursuant to federal law.

5. Admitted.

6. Respondent owns and/or maintains forty-eight apartment complexes in Pennsylvania.

7. It is denied that Westover operates any “master meter systems” in Pennsylvania. A “master meter system” is defined in the federal pipeline safety laws as:

... a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, *where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system.* The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents[.]

49 C.F.R. § 191.3 (emphasis added). That regulation further defines an “operator” as “a person who engages in the transportation of gas.” Finally, that section defines the “transportation of gas” as “the gathering, transmission or distribution of gas by pipeline, or the storage of gas, *in or affecting interstate or foreign commerce.*” (Emphasis added). It is denied that Westover is engaged in gathering, transmitting or distributing gas by pipeline in or affecting interstate commerce.

By way of further answer, the 17 apartment complexes named in I&E’s Complaint have different types of gas operations, which are described in **Exhibit A (CONFIDENTIAL)**.

A. In one case (Willow Run Apartments), the natural gas distribution company (“NGDC”) delivers gas to apartment meters, and residents are billed directly by the NGDC. This complex is clearly not a “master meter system.”

B. In nine other cases, the NGDC delivers gas to meters on the building and Westover distributes gas within the building. Gas piping internal to a building does not constitute the transmission or distribution of gas by pipeline “in or affecting interstate or foreign commerce.”

C. In eight other cases,¹ the NGDC delivers gas to a meter for the apartment complex. NGDCs are regulated by the Commission (rather than by FERC) pursuant to the Hinshaw Amendment, 15 U.S.C. § 717(c). Therefore, Westover purchases the gas in *intrastate commerce* because an NGDC is considered to be an intrastate gas pipeline facility pursuant to the Federal pipeline safety laws. 49 U.S.C. § 60101(a)(9) (defining an “intrastate gas pipeline facility” as a gas pipeline facility and gas transportation within a state that is not subject to FERC pursuant to 15 U.S.C. § 717). The flow of gas in interstate commerce stops with the state-regulated NGDCs.

D. These eight cases have several different types of systems, as described in **Exhibit A (CONFIDENTIAL)**. Some of the gas is used by Westover, which does not meet the definition of a master meter system because the gas is not resold through a gas pipeline system.

E. In all 17 cases described above, to the extent that the gas is resold to others, Westover does not transport gas in or affecting interstate commerce. Westover purchases the gas in intrastate commerce, transports the gas a short distance, entirely within Pennsylvania and on Westover’s own property, and sells it to tenants located in Pennsylvania on Westover’s property. From beginning to end, Westover’s purchase, transportation, and sale of the gas is entirely *intrastate commerce*.

F. Westover purchases a small amount of gas, relative to the total amount of gas sold by its NGDC suppliers (PECO Energy, t/a Exelon Energy (“PECO”) and UGI Utilities,

¹ Although I&E alleged that 17 Westover properties are master meter systems, data for 18 systems are presented here, because I&E alleged that Westover operates a master meter system at the Mill Creek apartment complex, but Westover operates the Millcreek Village Apartments I and the Millcreek Village Apartments II.

Inc. (“UGI”). Under these circumstances, Westover’s small natural gas facilities do not affect interstate or foreign commerce.

G. If Westover were not purchasing gas from PECO or UGI on behalf of its tenants, those tenants – if individually metered – would be purchasing the same amount of gas directly from the utility. As such, to the extent that Westover is reselling gas to customers, Westover’s purchase and redistribution of the gas does not “affect” interstate or foreign commerce. The amount of purchased gas would be the same.

H. Since Westover does not transport gas in or affecting interstate or foreign commerce, Westover is not engaged in the “transportation of gas” as defined in the Federal pipeline safety laws. Therefore, Westover is not an “operator” of a “master meter system” as defined in the Federal pipeline safety laws.

8. It is denied that Westover is a pipeline operator. Westover does not operate a “master meter system” as defined in the Federal pipeline safety laws, and I&E alleges no other basis for finding that Westover is regulated by the Federal pipeline safety laws. Westover incorporates by reference Paragraph 7.

9. It is admitted that the Jamestown Village Apartments LP (“Jamestown Village”) filed and then withdrew a registration as a pipeline operator with the Commission at Docket No. A-2021-3027219, and that the Commission cancelled the registration of Jamestown Village. Westover registered this location on the advice of Scott Orr and Terri Cooper Smith of I&E. It is denied that this registration is an admission that Jamestown Village owns or operates a “master meter system.”

10. It is admitted that Westover registered as a pipeline operator with the Commission at Docket No. A-2021-3028141, again based on the recommendation of Scott Orr and Terri Cooper

Smith of I&E, and that Westover filed an amended registration at that docket number. This registration pertained to eleven properties operated by Westover. It is denied that this registration is an admission that Westover operates any “master meter systems.” Westover acted in response to pressure from I&E to submit voluntarily to Commission jurisdiction.

11. This Paragraph contains a statement of law, to which no response is required. Act 127 is a written document that speaks for itself.

12. This Paragraph contains a statement of law, to which no response is required. Act 127 is a written document that speaks for itself.

13. This Paragraph contains a statement of law, to which no response is required. Act 127 is a written document that speaks for itself.

14. This Paragraph contains a statement of law, to which no response is required. 49 CFR § 191.3 is a written document that speaks for itself. By way of further answer, Westover incorporates by reference Paragraph 7 *supra*.

15. This Paragraph contains a statement of law, to which no response is required.

16. This Paragraph contains a statement of law, to which no response is required. By way of further answer, Westover denies that the legislative history of the PSA is relevant to this case. The question is the intent of the Pennsylvania General Assembly in enacting Act 127. Westover denies that the General Assembly intended that Act 127 would subject landlords operating small gas systems entirely within Pennsylvania to extensive and costly state and federal gas regulations (including, as alleged by I&E here, by failing to: have a “comprehensive procedures manual for operations, maintenance and emergencies;” produce records illustrating that the gas in its distribution lines contains the proper concentration of odorant; develop or implement a qualification program that identifies qualified tasks and ensures that the individuals performing

the covered tasks are qualified; and failing to register with the Commission, file reports and pay annual assessments, Complaint ¶ 45). Westover respectfully submits that I&E has misconstrued Act 127 as applying to facilities to which the Legislature never intended the Act to apply. To the extent that the legislative history of the PSA is relevant, it is significant to note that the quoted statement from the House Report states that “99 44/100 percent” – not 100% -- of gas transportation is within the commerce clause. It is denied that all gas transportation, as a matter of law, is engaged in or affects interstate or foreign commerce. Facts must be adduced to prove that Westover is engaged in or affects interstate or foreign commerce.

17. This Paragraph contains a statement of law, to which no response is required. Act 127 is a written document that speaks for itself.

18. This Paragraph contains a statement of law, to which no response is required. Act 127 is a written document that speaks for itself.

19. This Paragraph contains a statement of law, to which no response is required. Act 127 is a written document that speaks for itself.

20. This Paragraph contains a statement of law, to which no response is required. Act 127 and the Pennsylvania Public Utility Code (“Code”) are written documents that speak for themselves.

21. This Paragraph contains a statement of law, to which no response is required.

22. This Paragraph contains a statement of law, to which no response is required. To the extent this Paragraph contains an allegation of fact, it is denied. As explained in Paragraph 7 *supra*, Westover is not the “operator” of any “master meter system.” Consequently, it is not a “pipeline operator” as defined in Act 127.

23. It is admitted that the Commission has jurisdiction to decide this case (subject to review by Pennsylvania appellate courts), but it is denied that the Commission has jurisdiction to regulate Westover pursuant to Act 127, for the reasons set forth in Paragraph 7, *supra*.

II. Background

24. Denied. Westover operates forty-eight residential apartment complexes in Pennsylvania. It is denied that any of them are jurisdictional master meter systems. Westover incorporates by reference Paragraph 7, *supra*.

25. Denied. Westover incorporates by reference Paragraph 7, *supra*.

26. It is denied that any of the listed apartment complexes are master meter systems as defined in 49 CFR § 191.3. Westover incorporates by reference Paragraph 7, *supra*.

27. It is denied that the Commission has jurisdiction over Westover's gas facilities pursuant to Act 127. Westover incorporates by reference Paragraph 7, *supra*.

28. After reasonable investigation, Westover is unable to admit or deny how or why I&E became aware of Westover, or determined that Westover's apartment complexes are master meter systems. Gas possibly leaked from a Westover operated underground gas line. As soon as it was determined that a Westover-operated underground line might have been leaking, Westover contacted PECO to abandon the Westover-operated underground gas line. PECO ran a new line off of PECO's main gas line and installed a PECO meter. This eliminated Westover's operation of any underground lines at Jamestown.

29. After reasonable investigation, Westover is unable to admit or deny the allegations regarding a communication from PECO to I&E.

30. It is admitted that I&E has investigated Westover and concluded that Westover operates “master meter systems.” Westover is unable to admit or deny how or why I&E determined that Westover operates master meter systems, but it is denied that I&E’s conclusion is correct.

31. Admitted, upon information and belief. By way of further answer, Westover fully cooperated with this inspection.

32. It is admitted that I&E attempted to schedule follow-up inspections and that these inspections did not occur. However, Westover denies that it failed to cooperate with I&E’s investigation.

33. This Paragraph characterizes and describes I&E Exhibit 2. I&E Exhibit 2 is a written document that speaks for itself. It is admitted that Westover did not respond to the February 3, 2021 correspondence by March 17, 2021.

34. This Paragraph characterizes and describes I&E Exhibit 3. I&E Exhibit 3 is a written document that speaks for itself. It is admitted that Westover did not respond to the March 30, 2021 correspondence by April 29, 2021.

35. This Paragraph alleges facts about matters internal to I&E. Consequently, Westover cannot confirm or deny these allegations. The remainder of this Paragraph characterizes and describes I&E Exhibit 4. I&E Exhibit 4 is a written document that speaks for itself.

36. It is admitted that Jamestown Village filed an Act 127 registration form, which was subsequently withdrawn, and that Westover subsequently filed a registration form, which was also subsequently withdrawn. The remainder of this Paragraph is denied. By way of further answer, Westover has operated gas facilities at one or more apartment complexes in Pennsylvania for over

50 years and has never experienced any accident causing property damage or personal injury or death.

37. This Paragraph characterizes and describes I&E Exhibit 5. I&E Exhibit 5 is a written document that speaks for itself.

38. This Paragraph characterizes and describes I&E Exhibit 6. I&E Exhibit 6 is a written document that speaks for itself.

39. It is admitted that I&E cancelled a meeting with Westover's consultant, which was scheduled for November 5, 2021. The meeting was cancelled because of the legal dispute surrounding Commission jurisdiction.

40. This Paragraph characterizes and describes I&E Exhibit 7. I&E Exhibit 7 is a written document that speaks for itself.

41. Westover's Petition for Declaratory Order ("Petition") is a written document that speaks for itself. By way of further answer, Westover's Petition makes clear that there is a controversy between I&E and Westover regarding the Commission's jurisdiction over Westover's apartment complexes. Westover has a good faith belief that the Commission's prosecutorial staff has misconstrued Act 127 and asked the Commission to review the actions of its staff. Westover filed its Petition in a good faith effort to obtain a Commission order on point before registering as a pipeline operator and taking the additional, costly compliance actions that I&E was demanding. In the absence of regulations implementing Act 127, and any definitive Commission or appellate decision addressing the issue, Westover had no recourse but to ask the Commission to issue a declaratory order addressing the issue. Westover availed itself of its legitimate legal rights rather than voluntarily submitting itself to Commission jurisdiction, as demanded by I&E. Westover

should not be punished with civil penalties for doing so. By way of further answer, Westover incorporates its Petition by reference as fully as if set forth herein.

42. I&E's Answer to Westover's Petition is a written document that speaks for itself.

43. It is denied that Westover has failed to cooperate with I&E's investigation. To the contrary, Westover contacted several contractors to assist it with compliance activities and, in June, 2021, Westover entered into a contract with Entech Engineering Inc. ("Entech"). Westover subsequently spent more than \$41,000 developing maps and operations and maintenance plans. Westover also hired experienced public utility counsel who, in November, 2021, provided a detailed memorandum to I&E² in an attempt to demonstrate that Westover is not the "operator" of a "master meter system." In December, 2021, Westover properly exercised its right to contest I&E's overreach of its prosecutory authority by filing the Petition asking the Commission to review the actions of its staff.

44. Denied. By way of further answer, Westover has operated gas facilities at one or more apartment complexes in Pennsylvania for over 50 years and has never experienced any accident causing property damage or personal injury or death.

III. The Federal Pipeline Safety Laws do not Apply to Westover

45. It is denied that Westover has committed any violations of Act 127, or Federal pipeline safety laws, since it does not operate a "master meter system." Westover incorporates by reference Paragraph 7, *supra*.

² In addition, it is worth noting that I&E's July 28, 2021 correspondence stated that the investigation of Westover focused on determining which Westover apartment complexes meet the definition of "master meter system." On November 1, 2021, I&E sent Westover data requests concerning "allegations that tenants residing in Westover's apartment complexes may be billed more than the residential rate set forth in the applicable natural gas utility's current tariff." Westover provided extensive responses on November 22, 2021.

NEW MATTER

46. Westover incorporates Paragraphs 1 through 45 of its Answer by reference.

47. As an agency created by the General Assembly, the Commission has only the powers given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).

48. I&E concedes that Westover is not a “public utility” within the meaning of the Code. I&E Exhibit 7 p. 1. Consequently, Westover is not subject to Commission regulation pursuant to 52 Pa. Code § 59.33 (stating that the Commission adopts federal pipeline safety laws as the minimum safety standards for “all natural gas and hazardous liquid public utilities” in Pennsylvania).

49. When the General Assembly enacted Act 127, it did not include a “Declaration of Policy.” Westover submits that, by enacting Act 127, the General Assembly did not determine that apartment complexes are unable to operate and maintain their own gas facilities in a safe manner or that government regulation is required to ensure that they do so.

50. Act 127 applies to Westover only if Westover is a “pipeline operator,” which is defined as a person that owns or operates equipment or facilities for the transportation of gas or hazardous liquids by pipeline or pipeline facility *regulated under the Federal pipeline safety laws*. 58 P.S. § 801.102 (“Definitions”) (emphasis added). The sole basis for I&E’s claim that Westover is subject to regulation under the Federal pipeline safety laws is that Westover operates a “master meter system.” As discussed in Paragraph 7 *supra*, Westover does not operate a “master meter system” at any of its apartment complexes. Therefore, I&E’s Complaint must be dismissed.

51. Even if the Commission finds that Westover is a “master meter system,” it should not find that Westover is a “pipeline operator” under Act 127. **Exhibit B** is a document currently on the Commission’s website entitled “Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions.” In pertinent part, that document states:

6. WHAT IS CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Pipeline operators include: Companies engaged in the gathering, transportation or distribution of natural gas or hazardous liquids.

These include gathering companies; midstream companies, gas distribution systems that are not public utilities (cooperatives, municipalities and municipal authorities); *master meter systems that provide service to property owned by third parties*; and propane distribution systems subject to the federal pipeline safety laws.

7. WHAT IS NOT CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Those who are not pipeline operators include: Public utilities and city natural gas distribution operations, ultimate consumers who own service lines on their real property (*including master meter systems serving their own property*), and pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC).

If Westover is found to operate a master meter system, the Commission should recognize that its own guidance indicates Westover is not subject to regulation under Act 127 to the extent that complexes such as County Manor Apartments supply gas to Westover’s central boiler. To the extent that Westover resells gas to tenants, the Commission’s guidance is unclear.

52. The Commission should not order Westover to register with the Commission as a “pipeline operator” pursuant to Act 127 until the Commission finds, after a full and fair review of the specific facts surrounding each of Westover’s apartment complexes, that Westover is an operator of a “master meter system” subject to federal pipeline safety laws. This would be consistent with the Commission’s policy of encouraging entities to come into compliance with the law. Westover should not be punished for failing to concede to I&E’s (*i.e.*, the prosecutor’s) interpretation of the facts and law; particularly where the Commission has not given clear guidance

through regulations or orders on the implementation of Act 127 and its applicability to landlords throughout the Commonwealth.

53. If the Commission finds that Westover is the operator of a “master meter system,” it should not order Westover to pay a civil penalty. Westover’s conduct does not warrant a penalty pursuant to the statement of policy 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”) for the following reasons:

A. The conduct was not of a serious nature. 52 Pa. Code § 69.1201(c)(1). Although Westover has disputed Commission jurisdiction, Westover made reasonable efforts to provide gas to its residents in a safe manner. As a result of those efforts, there have been no accidents causing property damage or personal injury or death in over 50 years of operation.

B. The consequences of the conduct were not serious. 52 Pa. Code §§ 69.1201(c)(2) and 69.1201(c)(5). No customers were adversely affected by Westover’s good faith determination that it is not subject to Commission regulation pursuant to Act 127. There have been no accidents causing property damage or personal injury or death in over 50 years of operation.

C. Westover made a good faith determination, based on a reasonable legal argument, that it was not subject to Commission regulation pursuant to Act 127. There are no Commission regulations on point, nor has Westover located any Commission decisions or Pennsylvania appellate court cases squarely on point. Westover consulted with experienced public utility counsel, and filed the Petition seeking a Commission ruling to answer definitively the question of the Commission’s jurisdiction over Westover with respect to its various apartment complexes. Moreover, on information and belief, many similarly-situated owners or operators of

apartment complexes have not registered with the Commission as a “pipeline operator” under Act 127. Under these circumstances, Westover’s conduct should not be considered intentional so as to warrant a civil penalty. 52 Pa. Code § 69.1201(c)(3).

D. Westover made efforts to comply with the law by seeking the advice of experienced public utility counsel and by seeking a Commission declaratory order resolving uncertainty as to whether Westover is subject to Commission regulation pursuant to Act 127. In addition, it reviewed the “Frequently Asked Questions” document on the Commission’s website. Its conduct therefore does not merit a civil penalty. 52 Pa. Code § 69.1201(c)(4) and (6).

E. During 2021, Westover spent approximately \$70,000 in compliance costs and in responding to I&E’s investigation. Westover may not have responded to some of I&E’s letters, but it did cooperate in the investigation by responding to data requests during November, 2021. Westover did not act in bad faith, nor did it actively conceal violations or attempt to interfere with a Commission investigation. 52 Pa. Code § 69.1201(c)(7).

F. A civil penalty is not necessary to deter future violations. 52 Pa. Code § 69.1201(c)(8). If this case results in a final and unappealable order finding that Westover is subject to Commission jurisdiction, Westover will promptly register with the Commission as a “pipeline operator” pursuant to Act 127. The mere fact that Westover filed the Petition is clear evidence that deterrence is unnecessary. Westover is simply looking for a clear determination of the law as it may apply to each of the facilities that it operates.

G. Westover is not aware of any prior litigated Commission or appellate cases in which the owner or operator of an apartment complex was found to operate a “master meter system.” Therefore, the goal of consistency with prior Commission decisions does not warrant a civil penalty. 52 Pa. Code § 69.1201(c)(9).

54. Considering the facts of this case, the requested civil penalty would violate the Excessive Fines Clause of the United States³ and Pennsylvania Constitutions.⁴

55. The requested civil penalty would also violate Westover’s due process rights under the United States⁵ and Pennsylvania Constitutions⁶ because Westover did not have fair notice of conduct that is forbidden or required. *United States v. Harra*, 985 F.3d 196, 213 (3d. Cir. 2021) (holding that an agency must have clearly communicated its policies before a private party may be sanctioned for violating them). The Commission should encourage compliance with the law, rather than seeking to impose penalties on those who are not yet in compliance.

56. Act 127 authorized the Commission to promulgate regulations, 58 P.S. § 801.501(a) but the Commission has not done so. The regulatory review process would have given interested parties an opportunity to comment on the Commission’s proposed interpretation of Act 127. In addition, the regulatory review process would have provided a role for the standing committees of the Legislature as well as the Independent Regulatory Review Commission (“IRRC”) to assess whether the Commission’s proposed policies were consistent with Act 127. Specifically, IRRC and the Legislature would have had a say in whether Act 127 was intended to apply to landlords throughout the Commonwealth and under what circumstances.

57. The PUC avoided the regulatory review process by implementing Act 127 through an Implementation Order rather than by promulgating regulations. The Implementation Order failed to address the question of the Commission’s jurisdiction over the gas operations of apartment complexes.

³ U.S. CONST. amend VIII.

⁴ PA. CONST. art. I § 13.

⁵ U.S. CONST. amend. XIV § 1.

⁶ PA. CONST. art. I § 9.

58. There is no federal jurisdiction over Westover under the negative implications of the Commerce Clause of the United States Constitution, also known as the Dormant Commerce Clause. The Natural Gas Act, including 15 U.S.C. § 717, was intended to fill a regulatory gap and define the nature of federal jurisdiction over interstate and intrastate commerce. *Pub. Utils. Comm'n of State of Cal. v. FERC*, 900 F.2d 269, 275 (D.C. Cir. 1990). This was a reaction to the United States Supreme Court's *ad hoc* and case-by-case definitions of federal jurisdiction over the gas industry under Dormant Commerce Clause cases. The field of federal jurisdiction under the Natural Gas Act is roughly the same as that determined by the Supreme Court in these Dormant Commerce Clause cases; however, the statute intended to make the lines between state and federal jurisdiction clearer. *Fed. Power Comm'n v. E. Ohio Gas Co.*, 338 U.S. 464, 467 (1950).

59. When assessing what constitutes an undue burden on interstate commerce under the Dormant Commerce Clause, courts engage in a balancing test and consider “legitimate state interests” against any burden on interstate commerce that such state-level regulation imposes. *See Arkansas Elec. Coop. Corp. v. Arkansas Pub. Serv. Comm'n*, 461 U.S. 375 (1983). Further, the United States Supreme Court has stated that “the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the State.” *Id.* at 377. Here, while the analysis under the Natural Gas Act already excludes natural gas systems similar to Westover's (as discussed above), any purported balancing test under the Dormant Commerce Clause would yield the same result because the tenuous connection to interstate commerce by Westover means that any unintended burden on interstate commerce would be minimal. Because Westover engages entirely in intrastate commerce, the Commonwealth has a greater interest than the federal government in regulating its purely intrastate commerce, which outweighs the minimal

effect on interstate commerce even where the Pennsylvania General Assembly has knowingly chosen not to regulate.

60. The Pennsylvania General Assembly, in enacting Act 127, could have expressly included intrastate natural gas systems, such as Westover's, within the Commission's enforcement jurisdiction – but it did not.⁷ Instead, the General Assembly limited the Commission's enforcement jurisdiction to pipeline operators who are subject to Federal pipeline safety laws. Westover is not such an entity because Westover is not engaged in the “transportation of gas” as defined in the Federal pipeline safety laws.

61. Construing 49 CFR § 191.3 as applying to landlords such as Westover would effectively give the PUC jurisdiction over every landlord in Pennsylvania that operates natural gas facilities to provide gas to its tenants. There are likely hundreds, perhaps thousands, of such systems. If the General Assembly intended to effect such a dramatic change in law and public policy, by giving the Commission authority to regulate these entities under Act 127, it would have said so explicitly. The fact that it did not do so reflects the General Assembly's intent that these entities would not be regulated by the Commission.

62. I&E has singled out Westover for prosecution, despite many other landlords being similarly situated. Such selective enforcement constitutes a violation of Westover's due process rights.

63. Westover authorized Entech to retain the Oaktree Group, LLC (“Oaktree”), as consultants. The employees of this business are former PUC employees, including the former Chief of I&E's Pipeline Safety Division, Paul Metro. In meetings with Oaktree, I&E and Westover, Mr. Metro could not conclusively state that the Westover facilities were jurisdictional.

⁷ See *Feingold, supra* (regarding limitations on Commission powers).

I&E field investigators were also uncertain, and asked Mr. Metro for his opinion. Westover should not be subject to a civil penalty where I&E's own investigators are uncertain as to Westover's jurisdictional status.

64. The Commission should initiate a rulemaking proceeding to give notice to and obtain input from stakeholders on the implementation of Act 127. Such a proceeding would not be adversarial in nature and would promote better policy-making than prosecuting an individual operator for alleged violations of the law. It would also promote more wide-spread notice of and compliance with the policy choices that result from the proceeding, and avoid the potential of discriminatory prosecution.

CONCLUSION

WHEREFORE, for the foregoing reasons, Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") respectfully requests that the Commission dismiss the Complaint filed by the Bureau of Investigation and Enforcement.

Respectfully submitted,



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Date: January 25, 2022

Exhibit B

Act 127 of 2011 The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions

Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions



1. WHAT IS ACT 127 – THE PIPELINE ACT?

Signed into law Dec. 22, 2011, the Gas and Hazardous Liquids Pipelines Act expanded the Pennsylvania Public Utility Commission's (PUC) authority to enforce the federal pipeline safety laws as they relate to non-public utility gas and hazardous liquids pipeline equipment and facilities within the state.

2. WHEN DID THE PIPELINE ACT TAKE EFFECT?

Feb. 20, 2012

3. WHY WAS THE PUC CHARGED WITH ENFORCING THE PIPELINE ACT?

The PUC is an agent for the federal Department of Transportation's Office of Pipeline and Hazardous Materials Safety Administration, charged with enforcing the federal pipeline safety regulations in Pennsylvania. The Governor and the Legislature decided that as such, the PUC should take on this additional responsibility and expanded the PUC's oversight.

4. WHAT WILL PUC ENFORCEMENT INCLUDE?

The PUC already monitors compliance with federal and state regulations by conducting frequent inspections of pipeline facilities and records of regulated gas utilities. More than 45 different types of inspections are included in the PUC's monitoring of natural gas companies and their pipeline safety. The inspections of these newly regulated facilities will be similar.

Under the Pipeline Act, the PUC has developed a registry and conducts safety inspections of the lines for all pipeline operators in the state. The Commission identifies and tracks the development of pipelines in less populated areas that transport gas from unconventional gas wells.

5. TO WHOM DO THE PROVISIONS IN ACT 127 APPLY?

Any entity who owns or operates equipment or facilities within the Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under federal pipeline safety laws.

6. WHAT IS CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Pipeline operators include: Companies engaged in the gathering, transportation or distribution of natural gas or hazardous liquids.

These include gathering companies; midstream companies; pipeline companies; gas distribution systems that are not public utilities (cooperatives, municipalities, and municipal authorities); master meter systems that provide service to property owned by third parties; and propane distribution systems subject to the federal pipeline safety laws.

7. WHAT IS NOT CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Those who are not pipeline operators include: Public utilities and city natural gas distribution operations, ultimate consumers who own service lines on their real property (including master meter systems serving their own property), and pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC).

A petroleum gas distributor who is not subject to the federal pipeline safety laws also is not considered a pipeline operator under the Pipeline Safety Act. Petroleum gas pipelines subject to the federal pipeline safety laws are pipeline operators subject to Act 127 and must register with the Commission. However, such entities can use proof of registration with Pennsylvania Department of Labor and Industry (L&I) to do so.

8. WHAT IF MY ENTITY HAS PORTIONS THAT ARE COVERED UNDER ACT 127 AND PORTIONS THAT ARE NOT?

If a person operates multiple facilities, some of which are subject to Act 127 and some of which are not, the person is a pipeline operator only with regard to the facilities subject to Act 127. For example, a person who operates a FERC jurisdictional transmission pipeline facility in addition to non-FERC jurisdictional gathering lines is a pipeline operator only with regard to the non-FERC jurisdictional gathering lines.

9. WHAT INFORMATION IS INCLUDED IN THE REGISTRY?

The registration, which is required to be filed and renewed annually, includes the location of the pipeline by class and approximate aggregate miles of pipeline serving unconventional wells.

Registrants must provide contact information, U.S. Department of Transportation (U.S. DOT) Operator ID number and federal employee identification number.

Registrants also must provide the country of manufacture for all tubular steel product installed in Pennsylvania for the exploration, gathering or transportation of natural gas or hazardous liquids during the prior calendar year.

10. WHAT IF MY ENTITY HAS MORE THAN ONE U.S. DOT OPERATOR ID NUMBER?

An entity with multiple U.S. DOT Operator ID numbers must register each U.S. DOT Operator ID number as a separate pipeline operator.

11. WHAT IS THE REGISTRATION FEE?

The registration fee is \$250 to be paid annually to the PUC. This does not include additional money assessed by the Commission to perform its duties under Act 127.

12. WHAT IS THE DEADLINE FOR REGISTRATION?

The annual registration must be submitted to the Commission by March 31 of each year.

13. MY ENTITY RECEIVED INFORMATION FROM THE COMMISSION ABOUT REGISTRATION, BUT WE DO NOT BELIEVE WE FIT THE DEFINITION. WHAT SHOULD WE DO?

Entities who are not pipeline operators pursuant to the Pipeline Act need not register, but should email Commission staff at ra-Act127@pa.gov with a justification in order to be removed from the Commission's mailing list. An entity's determination that they are not required to register under the Pipeline Act is subject to review by the Commission.

14. WHAT IF A PIPELINE OPERATOR DOESN'T REGISTER?

Pipeline operators who fail to register will be subject to civil penalties of up to \$10,000 a day that the violation persists.

15. HOW IS TUBULAR STEEL PRODUCT DEFINED?

Tubular steel product means pipe, not valves or other facilities or equipment.

16. WHAT IF THE COUNTRY OF MANUFACTURE FOR THE TUBULAR STEEL PRODUCT IS UNKNOWN?

If the country of manufacture is unknown, registrants should then indicate the length of the product installed.

17. WHY IS THE PUC CHARGING AN ASSESSMENT?

The Pipeline Safety Act authorized the PUC to assess Pennsylvania pipeline operators for the Commission's cost of carrying out the responsibilities to enforce federal pipeline safety laws as they relate to non-public utility gas and hazardous liquid pipeline equipment and facilities within the state.

18. WHAT COSTS MAY BE ASSESSED?

The PUC may assess the total approved annual budget for the gas and hazardous liquids pipeline safety program net of any Federal offset or shortfall. At the end of the fiscal year when actual costs for the entire program are determined any excess funding will be deducted from the following year's net budget amount.

19. HOW IS THE ASSESSMENT DISTRIBUTED AMONG THE PIPELINE OPERATORS?

As defined in the Act the total intrastate assessable miles are divided by the net budget amount applicable for the fiscal year. This amount is then multiplied by each pipeline operator's reported intrastate assessable mileage.

20. ARE ANY ENTITIES EXEMPT FROM PAYING THE ASSESSMENT?

Under the Pipeline Safety Act, pipeline operators who are boroughs are exempt from paying the assessment.

21. WHAT IS THE SCHEDULE FOR THE ANNUAL ASSESSMENTS AND PAYMENT DATES?

Invoices for assessment are created after the PUC budget is approved and final calculation are completed. However, it is dependent upon when the legislature and Governor approve the budgets. The expected date for invoices would be in early July each year with the payment due 30 days after receipt of the invoice.

FOR FURTHER INFORMATION, CONTACT THE PUBLIC UTILITY COMMISSION:

WRITE

PA Public Utility Commission
Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265

CALL

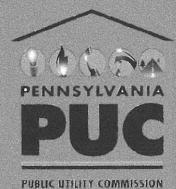
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May 11, 2022

VIA E-FILING

David P. Zambito

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2 North – Filing Room
Harrisburg, PA 17120

RE: In re: Petition of Westover Property Management Company, L.P. d/b/a Westover Companies for a Declaratory Order Regarding the Applicability of the Gas and Hazardous Liquids Pipeline Act; Docket No. P-2021-3030002

Amended Petition of Westover Companies for Declaratory Order

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission (“Commission”) is the Amended Petition of Westover Companies for Declaratory Order. Copies of this filing have been served as shown on the attached Certificate of Service.

Please contact me if you have any question regarding this filing. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for *Westover Property Management, L.P.*
d/b/a Westover Companies

DPZ:kmg

Enclosures

cc: Per Certificate of Service
Peter Quercetti, Vice President of Operations Management, Westover Companies
Alexander Stefanelli, CFO, Westover Companies

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket No. C-2022-3030251
v.	:	
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of May, 2022 served a true copy of the foregoing **Amended Petition of Westover Companies for Declaratory Order**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

Stephanie M. Wimer, Esq.
Kayla L. Rost, Esq.
Michael L. Swindler, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
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—
David P. Zambito, Esq.
Counsel for *Westover Property Management
Company, L.P. d/b/a Westover Companies*

VERIFICATION

I, Alexander Stefanelli, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 5/11/22

Alex Stefanelli

VERIFICATION

I, Pete Quercetti, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: May 11, 2022

Pete Quercetti

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies for a : Docket No. P-2021-3030002
Declaratory Order Regarding the Applicability of :
the Gas and Hazardous Liquids Pipeline Act :

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.61, you are hereby notified that you have twenty (20) days from the service of the enclosed Amended Petition of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) for Declaratory Order to file an Answer to the Amended Petition. All pleadings, such as an answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served to counsel for Westover, and where applicable the Administrative Law Judge presiding over the case.

File with:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
Filing Room
400 North Street, 2nd Floor
Harrisburg, PA 17120

With a copy to:

David P. Zambito, Esq. (PA ID #80017)
Jonathan P. Nase, Esq. (PA ID #44003)
Cozen O’Connor
17 North Second St., Suite 1410
Harrisburg, PA 17101



David P. Zambito
Counsel for
*Westover Property Management Company, L.P.
d/b/a Westover Companies*

Dated: May 11, 2022

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

In re: Petition of Westover Property Management :
Company, L.P. d/b/a Westover Companies for a : Docket No. P-2021-3030002
Declaratory Order Regarding the Applicability of :
the Gas and Hazardous Liquids Pipeline Act :

**AMENDED PETITION OF WESTOVER COMPANIES
FOR DECLARATORY ORDER**

Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) files this Amended Petition for Declaratory Order (“Petition”), pursuant to 66 Pa. C.S. § 331(f) and 52 Pa. Code § 5.42, to resolve an actual case and controversy regarding whether certain Westover facilities are subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 *et seq.* (“Act 127”). Westover respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) declare that these facilities are not subject to Act 127. Consequently, Westover respectfully requests that the Commission declare that Westover’s registration with the Commission as an Act 127 pipeline operator at Docket No. A-2021-3028141 is null and void.

In support thereof, Westover avers and argues as follows:

I. INTRODUCTION

A. On-Going Case and Controversy

1. On December 13, 2021, Westover filed a Petition for Declaratory Order (the “Original Petition”) in the above-referenced matter. Westover alleged that there was an on-going case and controversy regarding whether it is subject to Act 127. Specifically, Westover alleged

that the Commission’s Bureau of Investigation and Enforcement (“I&E”) had commenced an investigation into whether Westover is complying with Act 127. When I&E field investigators notified Westover that it must comply with Federal pipeline safety laws, Westover filed an Act 127 pipeline operator registration with the Commission.¹ Upon further review by counsel, Westover’s position is that it is not an “operator” of a “master meter system” as defined in 49 CFR § 191.3. Original Petition ¶¶ 1-4.

2. The Original Petition asked the Commission to declare that (1) all Westover’s gas facilities are not subject to Act 127; and (2) Westover’s registration with the Commission as an Act 127 pipeline operator is null and void. Original Petition pp. 10-11.

3. On January 3, 2022, I&E filed an Answer in Opposition to the Original Petition.

4. Also on January 3, 2022, I&E filed a Complaint against Westover at Docket No. C-2022-3030125, alleging violations of Act 127 and 49 CFR §§ 192.1-192.1015.

5. On January 25, 2022, Westover filed an Answer and New Matter in response to I&E’s Complaint, and on February 14, 2022, I&E filed its Reply to New Matter.

6. Clearly, there is an on-going case and controversy over whether any or all of Westover’s gas systems² are subject to Act 127.

B. Need to Amend the Original Petition

7. In its Original Petition, Westover described its Systems as follows:

In each complex, Westover purchases gas at a point in Pennsylvania from a Commission-regulated public utility (a natural gas distribution company (“NGDC”)) and distributes it to the tenants in the complex, charging them for the

¹ Westover originally registered with the Commission at Docket No. A-2021-3027219 for the Jamestown Village Apartments. This registration was withdrawn and cancelled in August 2021. Also in August, 2021, Westover registered as a pipeline operator at Docket No. A-2021-3028141, which registration was amended on September 17, 2021 and renewed in February 2022.

² The gas systems that Westover operates at the 17 apartment complexes identified in I&E’s Complaint are referred to here as the “Westover Systems” or the “Systems.”

gas through a meter or rents in compliance with the requirements of 66 Pa. C.S. § 1313 (regarding “Price upon resale of public utility services”).

Original Petition ¶ 5 (footnote omitted).

8. Based on a more detailed review of its Systems in response to discovery in the Complaint proceeding, Westover believes this description of its Systems needs to be expanded and clarified because Westover’s Systems are different in some key respects. Nevertheless, Westover continues to submit that the Commission lacks jurisdiction over any of the Systems.

9. For the reasons discussed below, Westover respectfully requests that the Commission declare that (1) Westover’s Systems are not subject to Act 127; and (2) Westover’s registration with the Commission as an Act 127 pipeline operator is null and void.

II. THE PARTIES

10. Westover is not a Commission-regulated public utility. Its business address is: 550 American Avenue, Suite 1, King of Prussia, PA 19406.

11. Westover’s counsel in this matter are:

David P. Zambito, Esq. (PA ID # 80017)
Jonathan P. Nase, Esq. (PA ID # 44003)
Cozen O’Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
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12. I&E serves as the Commission’s prosecutory bureau for the purposes of representing the public interest in ratemaking and service matters, and enforcing compliance with the Pennsylvania Public Utility Code (“Code”) and Commission Regulations and Orders.

Implementation of Act 129 of 2008; Organization of Bureaus and Offices, Docket No. M-2008-2071852 (Order entered Aug. 11, 2011).

III. LEGAL STANDARDS

13. Section 331(f) of the Code, 66 Pa. C.S. § 331(f), and the Commission's regulations at 52 Pa. Code § 5.42 provide that the Commission may issue a declaratory order to terminate an actual controversy or to remove uncertainty. *Re Duquesne Light Co.*, 61 Pa. P.U.C. 507 (1986). For purposes of a petition for declaratory order, the Commission assumes the facts as alleged are true and issues a decision on the issues accordingly.

IV. ARGUMENT IN SUPPORT OF DECLARATORY ORDER

14. As an agency created by the General Assembly, the Commission has only the powers given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The threshold question presented is whether the Commission has jurisdiction to regulate the Westover Systems.

A. The Commission Lacks Jurisdiction Pursuant to 52 Pa. Code § 59.33

15. Commission regulations at 52 Pa. Code § 59.33 state that the Commission adopts, as the minimum safety standards for all natural gas and hazardous liquid public utilities, the safety standards found in 49 U.S.C. §§ 60101-60503 and 49 CFR Parts 191-193, 195 and 199. Westover is not a public utility as defined in 66 Pa. C.S. § 102. Therefore, the Commission does not have jurisdiction to regulate the Westover Systems pursuant to 52 Pa. Code § 59.33.

B. The Commission Lacks Jurisdiction Pursuant to Act 127

1. Legal Test of a “Master Meter System”

16. In 2011, the General Assembly enacted Act 127 in response to the growth of Marcellus Shale in Pennsylvania. In pertinent part, Section 501(a) of Act 127, 58 P.S. § 801.501(a), gives the Commission the general administrative authority to supervise and regulate “pipeline operators” within this Commonwealth who are subject to Federal pipeline safety laws. The General Assembly also empowered the Commission to adopt regulations consistent with the Federal pipeline safety laws, but the Commission -- after a decade -- has not yet promulgated regulations implementing Act 127 or specifically defining its interpretation of the limits of its powers under Act 127.³

17. The Pennsylvania General Assembly, in enacting Act 127, could have expressly included intrastate natural gas systems, such as Westover’s, within the Commission’s enforcement jurisdiction – but it did not. Construing Act 127 broadly would effectively give the PUC jurisdiction over every landlord in Pennsylvania that provides gas to its tenants using a master meter. There are likely hundreds, perhaps thousands, of such landlords. If the General Assembly intended to effect such a dramatic change in law and public policy, by giving the Commission authority to regulate these entities under Act 127, it would have said so explicitly. The fact that it did not do so reflects the General Assembly’s intent that these entities would not be regulated by the Commission.

³ Under the Pennsylvania regulatory review process, interested parties would have had an opportunity to provide comments on the appropriate implementation of Act 127 and binding norms on all similarly-situated entities could have been developed. Moreover, the Pennsylvania General Assembly would have had an opportunity to review the Commission regulations and assess consistency with the legislative intent of Act 127. *See* Pennsylvania Regulatory Review Act, 71 P.S. §§ 745.1 - 745.15; *see also* Pennsylvania Commonwealth Documents Law, 45 P.S. §§ 1102 - 1208. Without clear binding norms, the risk of selective and discriminatory prosecution is greatly increased.

18. The General Assembly only gave the Commission authority to regulate pipeline operators. A “pipeline operator” is defined as:

A person that owns or operates equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility *regulated under Federal pipeline safety laws*. The term does not include a public utility or an ultimate consumer who owns a service line on his real property.

58 P.S. § 801.102 (“Definitions”) (emphasis added).⁴

19. I&E contends that Westover is a “pipeline operator” as defined in Act 127 because Westover allegedly owns or operates a “master meter system” as defined by the Federal pipeline safety laws. **Appendix 1** p. 1.⁵

20. Act 127 defines the “Federal pipeline safety laws” as:

The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts.

58 P.S. § 801.102 (“Definitions”).

21. The Federal pipeline safety laws define a “master meter system” as:

... a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the

⁴ The definition of “pipeline” in Act 127 reiterates that Act 127 pertains only to pipelines regulated by Federal pipeline safety laws. 58 P.S. § 801.102 (emphasis added) defines a pipeline as:

A part of the physical facilities through which gas or hazardous liquids move in transportation, including a pipe valve and other appurtenance attached to the pipe, compressor unit, metering station, regulator station, delivery station, holder and fabricated assembly. *The term only includes pipeline regulated by Federal pipeline safety laws*. The term does not include a pipeline subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

⁵ In addition, as authority for the Commission’s jurisdiction over Westover, **Appendix 1** p. 2 cites a case (*Pa. Pub. Util. Comm’n, Bureau of Investigation and Enforcement v. Brookhaven MHP Management LLC, et al.*, Docket No. C-2017-2613983 (Order entered Aug. 23, 2018)) in which the Commission approved a settlement. That case is inapposite because the parties did not contest the Commission’s jurisdiction and the Commission did not explicitly address its jurisdiction.

ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents[.]

49 CFR § 191.3.

22. Consequently, in order for any of Westover’s Systems to constitute a “master meter system” as defined by the Federal pipeline safety laws, that System must satisfy *all four elements* of the following test:

a. The apartment complex must have a pipeline system for distributing gas within, but not limited to, a definable area, such as an apartment complex.

b. Westover must be the operator of the pipeline system. An “operator” is defined as “a person who engages in the transportation of gas.” 49 CFR § 191.3. The “transportation of gas” is defined as “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting interstate or foreign commerce.” *Id.*

c. Westover must purchase metered gas from an outside source.

d. Westover must resell that gas to the ultimate consumer through a gas distribution pipeline system. The ultimate consumer must purchase the gas from Westover directly through a meter or by other means (such as by rents).

2. None of Westover’s Systems Satisfy the Four-Pronged Test of a “Master Meter System”

a. Willow Run Apartments

23. At the Willow Run Apartments, the NGDC delivers gas directly to a meter for each individual apartment. Residents use the gas for heat and cooking (residents use electricity to make hot water). Residents pay the NGDC directly. **Appendix 2.**

24. Willow Run does not constitute a “master meter system” for the following reasons:

a. Westover does not have a pipeline system for distributing gas to residents; the NGDC’s pipeline system is directly connected to the ultimate consumer (the residents).

b. Westover is not the operator of a pipeline system because it does not gather, transmit, distribute or store any gas; the gas goes directly from the NGDC to the ultimate customer.

c. Westover does not purchase gas from an NGDC.

d. Westover does not resell gas to the ultimate consumer. Furthermore, residents do not pay Westover for gas; residents purchase gas directly from the NGDC.

b. Paoli Place Apartments (North Buildings L-R and South Valley Townhomes)

25. At the Paoli Place Apartments (North Buildings L-R and South Valley Townhomes), the NGDC delivers gas to a meter on the apartment building and each apartment has a submeter to calculate the gas bill. Residents consume the gas for heat and hot water and cook with electricity. They pay the NGDC directly for the gas used. **Appendix 3.**

26. These apartment buildings do not constitute “master meter systems” because Westover does not purchase gas from an NGDC and does not resell gas to the ultimate consumer. Furthermore, residents do not pay Westover for gas; residents purchase gas directly from the NGDC. Westover therefore fails to meet the third and fourth elements of the test of a “master meter system.”

c. Lansdale Apartments, Concord Court, and Black Hawk Apartments

27. In these apartment complexes, the NGDC delivers gas to a meter on the apartment building, Westover consumes all the gas in its central boiler, and provides heat and hot water to residents. Tenants use electricity for cooking; they do not consume natural gas at all. **Appendices 4 and 5.**

28. In an opinion letter regarding Bryant College, the U.S. Department of Transportation’s Pipeline Hazardous Materials Safety Administration (“PHMSA”) stated that Bryant College did not meet the definition of a “master meter system” because it used the gas

delivered through its pipeline system to provide heat and hot water to campus buildings. The college was therefore considered the consumer of the gas. **Appendix 6.** Similarly, in an opinion letter regarding another college, the PHMSA stated “if the college-owned gas system consumes the gas and provides another type of service such as heat or air conditioning, to the individual buildings, then the college is not engaged in the distribution of gas. In this instance the college would be the ultimate consumer, and the Federal pipeline safety standards would only apply to mains and service lines upstream of the meter.” **Appendix 7.**

29. PHMSA interpretation letters “reflect the agency’s current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations are not generally applicable, do not create legally-enforceable rights or obligations, and are provided to help the specific requestor understand how to comply with the regulations.” See page 1 of **Appendix 8.** They are not controlling on the Commission.

30. The Commission should find the above-referenced PHMSA opinion letters persuasive because there is clearly a difference between (1) purchasing gas and reselling it to residents, and (2) consuming gas and supplying heat and hot water to residents. The definition of a “master meter system” requires the purchase and resale of gas. 49 CFR § 191.3.

31. The Commission lacks jurisdiction over these apartment complexes because Westover consumes the gas and provides heat and hot water to residents. Act 127 explicitly states that it does not apply to the ultimate consumer of gas. 58 P.S. § 801.102, *supra*.

32. Moreover, because Westover consumes the gas, rather than reselling it to customers, Westover does not meet the first, second, or fourth elements of the test for a “master meter system” at the Lansdale Village, Concord Court and Black Hawk Apartments:

- a. Westover does not have a pipeline system for distributing gas to residents.

b. Westover is not the operator of a pipeline system because it does not gather, transmit, distribute or store any gas; the gas goes directly from the NGDC to the ultimate consumer (Westover).

c. Westover does not resell gas to the ultimate consumer.

d. Woodland Plaza, Country Manor, Norriton East and Paoli Place (Paoli South) Apartments

33. In these apartment complexes, the NGDC delivers gas to a meter on the apartment building, Westover consumes most of the gas in its central boiler to provide heat and hot water to residents, but residents use gas for cooking. **Appendices 3, 4 and 5.**

34. Westover's Systems at these complexes do not meet the first element of the test of a "master meter system" because they are located entirely within a single building. The definition of a master meter system specifically states that the system "has a pipeline system for distributing gas *within, but not limited to*, a definable area, such as . . . [an] apartment complex." The rules of statutory construction apply to regulations. *P.S.P., Bureau of Liquor Control Enforcement v. Benny Enterprises, Inc.*, 669 A.2d 1018, 1021 (Pa. Cmwlth. 1996), *appeal denied*, 681 A.2d 1344 (Pa. 1996). One rule of statutory construction is that a statute is to be construed to give effect to every word. *Habecker v. Nationwide Ins. Co.*, 445 A.2d 1222, 1226 (Pa. Super. 1982). The Commission therefore must give effect to the terms "within, but not limited to" an apartment complex. Since these complexes' distribution systems are located entirely within the apartment building, they do not satisfy the first element of the test of a "master meter system."

35. PHMSA's opinions on whether interior gas lines constitute master meter systems are very fact specific. **Appendix 8.** As stated above, those opinions are not controlling on the Commission. The Commission should not find these PHMSA opinions persuasive because

PHMSA's opinions completely overlook the phrase "within, but not limited to" in the definition of "master meter system." The Commission, in contrast, must give effect to those words.

36. Additionally, Westover's Systems at these apartment complexes do not meet the first element of the test of a "master meter system" because they do not have a pipeline system within the meaning of 49 CFR § 191.3. That regulation defines a pipeline system as "all parts of those physical facilities through which gas moves *in transportation ...*" (emphasis added). Section 191.3 defines the transportation of gas as meaning that the gas is distributed *in or affecting interstate or foreign commerce*. 49 CFR § 191.3 (emphasis added).

37. These complexes do not distribute gas in or affecting interstate or foreign commerce. At these apartment complexes, Westover purchases gas at a meter on a building located in Pennsylvania. This is a transaction in intrastate commerce because an NGDC is considered to be an intrastate gas pipeline facility pursuant to the Federal pipeline safety laws. 49 U.S.C. § 60101(a)(9) (defining an "intrastate gas pipeline facility" as a gas pipeline facility and gas transportation within a state that is not subject to the Federal Energy Regulatory Commission ("FERC") pursuant to 15 U.S.C. § 717). Westover then resells the gas to residents inside the same building, located in Pennsylvania. Westover's transportation of gas therefore does not re-enter interstate commerce; it is entirely intrastate. Moreover, the distribution of gas for residents to cook does not "affect" interstate or foreign commerce. The amount of gas resold to customers at each of these apartment complexes is very small compared to the amount of gas distributed by the pertinent NGDC. For all of the above reasons, Westover's Systems at these apartment complexes do not distribute gas in, and do not "affect," interstate or foreign commerce. Therefore, at these apartment complexes, Westover does not transport gas, does not have a pipeline system, and does not satisfy the first element of the test for a "master meter system."

38. Westover’s research has not located any PHMSA opinion addressing the question of whether the operator of the system was engaged in the gathering, transmission, or distribution of gas “in or affecting interstate or foreign commerce.” As discussed above, the Commission must give effect to every word in the regulation. To the extent that PHMSA’s opinions fail to give effect to the requirement that a “master meter system” distributes gas “in or affecting interstate or foreign commerce,” PHMSA’s opinions are not persuasive and should not be followed by the Commission.

39. Moreover, Westover’s Systems at these apartment complexes do not satisfy the second element of the test of a “master meter system” because Westover is not the “operator” of a “master meter system.” An operator is defined as a person who engages in the transportation of gas. As discussed above, the transportation of gas is defined as the gathering, transmission, distribution or storage of gas “in or affecting interstate or foreign commerce.” PHMSA opinion letters completely ignore this requirement but, as discussed above, in construing a regulation, all words in the regulation must be given effect. As also discussed above, Westover’s Systems at these apartment complexes do not distribute gas in or affecting interstate or foreign commerce. Consequently, Westover’s Systems at these apartment complexes do not meet the second element of the test of a “master meter system.”

40. Finally, Westover’s Systems at these apartment complexes do not satisfy the fourth element of the test of a “master meter system.” Westover does not transport gas, nor does it have a pipeline system as defined by 49 CFR § 191.3, because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38. As a result, they do not meet the fourth element of a “master meter system.”

e. Fox Run and Paoli Place (North Buildings A-K) Apartments

41. At the Fox Run and Paoli Place Apartments, an NGDC meter is located on the building and there is a submeter at each apartment that measures the gas each resident uses for heating. Westover consumes the gas used for heating water and supplies hot water to residents. Residents cook with electricity. **Appendix 3.**

42. Westover's Systems at these apartment complexes do not satisfy the first element of the test of a "master meter system" because they are located entirely within the apartment building, *see* ¶¶ 34-35, *supra*, and because they do not distribute gas in or affecting interstate or foreign commerce, *see* ¶¶ 36-38, *supra*. At these complexes, residents purchase gas to heat their apartments. The amount of gas so consumed by residents is small, compared to the total amount of gas sold by the pertinent NGDCs. Consequently, the amount of gas Westover resells to residents at each of these apartment complexes does not "affect" interstate or foreign commerce.

43. Moreover, Westover's Systems at these apartment complexes do not satisfy the second element of the test of a "master meter system" because they do not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 42, *supra*. Consequently, Westover is not the operator of a "master meter system." 49 CFR § 191.3.

44. Finally, Westover's Systems at these apartment complexes do not satisfy the fourth element of the test for a "master meter system." Westover does not transport gas, nor does it have a pipeline system as defined by 49 CFR § 191.3, because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 42, *supra*.

f. Mill Creek Village Apartments I and Oak Forest Apartments

45. At these apartment complexes, the NGDC delivers gas to an apartment complex meter. The gas is piped to buildings, where most of the gas is consumed by Westover's central

boiler to produce heat and hot water.⁶ A small amount of gas is used by residents for cooking.

Appendix 9.

46. At these complexes, Westover's System does not meet the first element of the test of a "master meter system" because it is located entirely within the apartment complex, *see* ¶¶ 34-35, *supra*, and because it does not distribute gas in or affecting interstate or foreign commerce, *see* ¶¶ 36-38, *supra*. At these complexes, residents only purchase gas for cooking. The amount of gas so consumed by residents is small, compared to the total amount of gas sold by the pertinent NGDCs. Consequently, the amount of gas Westover resells to residents at each of these apartment complexes does not "affect" interstate or foreign commerce.

47. Moreover, Westover's Systems at these apartment complexes do not satisfy the second element of the test of a "master meter system" because they do not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 46, *supra*. Consequently, Westover is not the operator of a "master meter system." 49 CFR § 191.3.

48. Finally, Westover's Systems at these apartment complexes do not satisfy the fourth element of the test for a "master meter system." Westover does not have a pipeline system as defined by 49 CFR § 191.3 because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 46, *supra*.

g. Gladstone Towers, Main Line Berwyn, and Lansdowne Towers Apartments

49. At these apartment complexes, the NGDC delivers gas to an apartment complex meter. Underground service lines take the gas from that meter to each individual apartment, which has a submeter. Residents consume gas for heat at all of these apartment complexes. At the

⁶ In spring, 2022, the Oak Forest Apartments will be converted to individual metered buildings. When that is completed, the Oak Forest Apartments should be treated like Woodland Plaza, *see* ¶¶ 33-40, *supra*.

Gladstone Towers Apartments, they also consume gas for cooking, and at the Main Line Berwyn Apartments, they consume gas for hot water and cooking as well as heating. **Appendix 10.**

50. At these complexes, Westover's System does not meet the first element of the test of a "master meter system" because it is located entirely within the apartment complex, *see* ¶¶ 34-35, *supra*, and because it does not distribute gas in or affecting interstate or foreign commerce, *see* ¶¶ 36-38, *supra*. The amount of gas consumed by residents at any one of these apartment complexes is small, compared to the total amount of gas sold by the pertinent NGDCs. Consequently, the amount of gas Westover resells to residents at each of these apartment complexes does not "affect" interstate or foreign commerce.

51. Moreover, Westover's Systems at these apartment complexes do not satisfy the second element of the test of a "master meter system" because they do not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 50, *supra*. Consequently, Westover is not the operator of a "master meter system." 49 CFR § 191.3.

52. Finally, Westover's Systems at these apartment complexes do not satisfy the fourth element of the test for a "master meter system." Westover does not have a pipeline system as defined by 49 CFR § 191.3 because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 50, *supra*.

h. Hillcrest Apartments and Valley Stream Apartments

53. At these apartment complexes, the NGDC delivers gas to an apartment complex meter. Underground service lines then connect the meter to each building in the complex *seriatim*, and to each apartment. At both of these complexes, residents use gas for heat, but at the Hillcrest Apartments, some residents use gas for both heat and hot water, whereas at the Valley Stream Apartments, some residents use gas for both heat and cooking. **Appendix 11.**

54. At these complexes, Westover’s System does not meet the first element of the test of a “master meter system” because it is located entirely within the apartment complex, *see* ¶¶ 34-35, *supra*, and because it does not distribute gas in or affecting interstate or foreign commerce, *see* ¶¶ 36-38, *supra*. The amount of gas consumed by residents at any one of these apartment complexes is small, compared to the total amount of gas sold by the pertinent NGDCs. Consequently, the amount of gas Westover resells to residents at each of these apartment complexes does not “affect” interstate or foreign commerce.

55. Moreover, Westover’s Systems at these apartment complexes do not satisfy the second element of the test of a “master meter system” because they do not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 54, *supra*. Consequently, Westover is not the operator of a “master meter system.” 49 CFR § 191.3.

56. Finally, Westover’s Systems at these apartment complexes do not satisfy the fourth element of the test for a “master meter system.” Westover does not have a pipeline system as defined by 49 CFR § 191.3 because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 54, *supra*.

i. Park Court Apartments

57. In this apartment complex, the NGDC has two meters in the apartment complex.⁷ A service line connects each meter to a building in the complex. Residents use the gas for heating and cooking. **Appendix 12.**

58. At this complex, Westover’s System does not meet the first element of the test of a “master meter system” because it is located entirely within the apartment complex, *see* ¶¶ 34-35, *supra*, and because it does not distribute gas in or affecting interstate or foreign commerce, *see*

⁷ In spring, 2022, the Park Court Apartments will be converted to individual metered buildings. When that is completed, the Park Court Apartments will be similar to the Gladstone Towers Apartments. *See* ¶¶ 49-52, *supra*.

¶¶ 36-38, *supra*. The amount of gas consumed by residents at Park Court is small, compared to the total amount of gas sold by the pertinent NGDC. Consequently, the amount of gas Westover resells to residents at Park Court Apartments does not “affect” interstate or foreign commerce.

59. Moreover, Westover’s System at this apartment complex does not satisfy the second element of the test of a “master meter system” because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 58, *supra*. Consequently, Westover is not the operator of a “master meter system.” 49 CFR § 191.3.

60. Finally, Westover’s System at Park Court Apartments does not satisfy the fourth element of the test for a “master meter system.” Westover does not have a pipeline system as defined by 49 CFR § 191.3 because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 58, *supra*.

C. The Commission Lacks Jurisdiction Over any Westover Apartment Complex Pursuant to the Dormant Commerce Clause

61. There is also no federal jurisdiction over Westover under the negative implications of the Commerce Clause of the United States Constitution, also known as the Dormant Commerce Clause. The Natural Gas Act, including 15 U.S.C. § 717, was intended to fill a regulatory gap and define the nature of federal jurisdiction over interstate and intrastate commerce. *Pub. Utils. Comm’n of State of Cal. v. FERC*, 900 F.2d 269, 275 (D.C. Cir. 1990). This was a reaction to the United States Supreme Court’s *ad hoc* and case-by-case definitions of federal jurisdiction over the gas industry under Dormant Commerce Clause cases. The field of federal jurisdiction under the Natural Gas Act is roughly the same as that determined by the Supreme Court in these Dormant Commerce Clause cases; however, the statute intended to make the lines between state and federal jurisdiction clearer. *Fed. Power Comm’n v. E. Ohio Gas Co.*, 338 U.S. 464, 467 (1950).

62. When assessing what constitutes an undue burden on interstate commerce under the Dormant Commerce Clause, courts engage in a balancing test and consider “legitimate state interests” against any burden on interstate commerce that such state-level regulation imposes. *See Arkansas Elec. Coop. Corp. v. Arkansas Pub. Serv. Comm’n*, 461 U.S. 375 (1983). Further, the United States Supreme Court has stated that “the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the State.” *Id.* at 377. Here, while the analysis under the Natural Gas Act already excludes natural gas systems similar to Westover’s (as discussed above), any purported balancing test under the Dormant Commerce Clause would yield the same result because the tenuous connection to interstate commerce by Westover means that any unintended burden on interstate commerce would be minimal. Because Westover engages entirely in intrastate commerce, the Commonwealth has a greater interest than the federal government in regulating its purely intrastate commerce, which outweighs the minimal effect on interstate commerce even where the Pennsylvania General Assembly has knowingly chosen not to regulate.

D. Westover’s Registration is Null and Void Because Westover is not a Pipeline Operator at any of the Pertinent Apartment Complexes

63. At the insistence of I&E personnel, Westover registered as a pipeline operator pursuant to Act 127 at Docket No. A-2021-3028141.

64. The apartment complexes for which Westover registered as a pipeline operator are: Carlisle Park, Gladstone Towers, Hillcrest, Lansdowne Towers, Main Line Berwyn, Mill Creek Village I, Norriton East, Oak Forest, Park Court, Valley Stream and Willow Run. **Appendix 13.**

65. As discussed above, Gladstone Towers, Hillcrest, Lansdowne Towers, Main Line Berwyn, Mill Creek Village I, Norriton East, Oak Forest, Park Court, Valley Stream and Willow Run do not satisfy the four-part test for a “master meter system.”

66. Westover’s facilities at the Carlisle Park Apartments are similar to those at the Hillcrest and Valley Stream Apartments. **Appendix 11.** The NGDC delivers gas to an apartment complex meter. Underground service lines then connect the meter to each building in the complex *seriatim*, and to each apartment. Residents use the gas for heating and cooking; residents use electricity for hot water.

67. Westover’s gas system at Carlisle Park does not satisfy the four-part test for a “master meter system” for the following reasons:

a. Westover’s System does not meet the first element of the test of a “master meter system” because it is located entirely within the apartment complex, *see* ¶¶ 34-35, *supra*, and because it does not distribute gas in or affecting interstate or foreign commerce, *see* ¶¶ 36-38, *supra*. The amount of gas consumed by residents at Carlisle Park is small, compared to the total amount of gas sold by the NGDC. Consequently, the amount of gas Westover resells to residents at Carlisle Park does not “affect” interstate or foreign commerce.

b. Westover’s System does not satisfy the second element of the test of a “master meter system” because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 67.a., *supra*. Consequently, Westover is not the operator of a “master meter system.” 49 CFR § 191.3.

c. Finally, Westover’s System at Carlisle Park does not satisfy the fourth element of the test for a “master meter system.” Westover does not transport gas, nor does it have a pipeline system as defined by 49 CFR § 191.3, because it does not distribute gas in or affecting interstate or foreign commerce. *See* ¶¶ 36-38, 67.a., *supra*.

68. Since Westover does not have a “master meter system” at any of the apartment complexes for which it registered as a “pipeline operator,” its registration should be declared null and void.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) respectfully requests that the Commission declare that:

- (a) the Westover Systems, and the Westover gas system at Carlisle Park, are not subject to the Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.*; and,
- (b) Westover’s registration with the Commission as an Act 127 pipeline operator is null and void.

Respectfully submitted,



David P. Zambito, Esq. (PA ID # 80017)
Jonathan P. Nase, Esq. (PA ID # 44003)
Cozen O’Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Phone: (717) 703-5892
E-mail: dzambito@cozen.com
E-mail: jnase@cozen.com

Date: May 11, 2022

**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 1
I&E Letter to Westover Re PUC
Pipeline Safety Regulations
(November 22, 2021)**



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 22, 2021

Via Electronic Mail Only

David P. Zambito, Esq.
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101

Re: Investigation of Westover Property Management Company, L.P. d/b/a
Westover Companies Relating to Possible Violations of the Gas and
Hazardous Liquids Pipelines Act and Federal Pipeline Safety Laws and
Regulations
Bp8CaseID# 3025977
I&E Letter

Dear Attorney Zambito,

The Bureau of Investigation and Enforcement (“I&E”) is in receipt of your letter dated November 4, 2021, wherein you claim that the natural gas systems of your client, Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), are not subject to pipeline safety regulation by the Pennsylvania Public Utility Commission (“Commission”). For the reasons set forth herein, I&E disagrees with Westover’s position.

I&E continues to maintain that the pipeline facilities at some, but not all, Pennsylvania apartment complexes owned or managed by Westover constitute “master meter systems” as defined in 49 CFR § 191.3 of the federal pipeline safety regulations and, consequently, are subject to Commission oversight through the Gas and Hazardous Liquids Pipelines Act (“Act 127”), 58 P.S. §§ 801.101, *et seq.* Therefore, I&E’s position that Westover is a “pipeline operator” as defined in Act 127, Section 801.102 remains unchanged. 58 P.S. § 801.102. I&E has never alleged that Westover is a public utility.

Your claim that Westover’s transportation of gas by pipeline does not *affect* interstate or foreign commerce and therefore renders Westover not to be subject to the federal pipeline safety regulations is incorrect. The minimum federal pipeline safety standards apply broadly to both interstate and intrastate pipelines through the federal Pipeline Safety Act, 49 U.S.C. §§ 60101-60143 (“PSA”).

Pursuant to the PSA, States may assume responsibility for regulating intrastate pipeline facilities by submitting an annual certification to the Secretary of the U.S. Department of Transportation pursuant to 49 U.S.C. § 60105. A State that has submitted a certification under Section 60105(a) of the PSA may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum federal pipeline safety standards. 49 U.S.C. § 60104. Pennsylvania, through the Commission's I&E Safety Division, is certified to regulate the safety of intrastate pipelines.

The Pennsylvania General Assembly adopted the federal pipeline safety laws and regulations, as well as all amendments thereto, as the safety standards for non-public utility pipeline operators in Pennsylvania by enacting Act 127. *See* 58 P.S. § 801.302. Additionally, the Pennsylvania General Assembly authorized the Commission to supervise and regulate pipeline operators within Pennsylvania consistent with (but not more stringent than) Federal pipeline safety laws. 58 P.S. § 801.501.

As it relates to Westover, the regulation of intrastate master meter systems fits squarely within the purview of Section 191.3 of the federal pipeline safety regulations, 49 C.F.R. § 191.3. Intrastate gas master meter systems have for decades been subject to pipeline safety regulation either through PHMSA or an authorized State. Since Act 127 became effective, the Commission has enforced violations of Act 127 on pipeline operators operating master meter systems in Pennsylvania. *See Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. Brookhaven MHP Management LLC, et al.*, Docket No. C-2017-2613983 (Order entered August 23, 2018).

Westover's position is contrary to well-established law and the sound policy of the PSA, which is to provide adequate protection against risks to life and property posed by pipeline transportation and facilities.

I&E has attempted for nearly one-year to amicably work with Westover to aid Westover into becoming compliant with the minimum federal pipeline safety standards. Westover's unregulated master meter systems in their current state pose a risk to Westover's residents, employees, and the general public. Should Westover refuse to submit to the Commission's oversight for pipeline safety purposes, I&E will initiate an enforcement action and seek the imposition of civil penalties pursuant to 58 P.S. § 801.502.

Please advise by **December 13, 2021** whether Westover will submit to the Commission's jurisdiction pursuant to Act 127 and finalize the steps necessary to fully comply with the federal pipeline safety regulations. Should Westover respond in the negative and continue to disregard its responsibilities under Act 127, I&E will proceed with formal enforcement action and prepare and file a Formal Complaint.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor, I&E

cc: (via email only)
Michael L. Swindler, Esq., I&E Deputy Chief Prosecutor
Kayla L. Rost, Esq., I&E Prosecutor
Terri C. Cooper Smith, Supervisor – Safety Division
Scott Orr, Engineer – Safety Division

**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

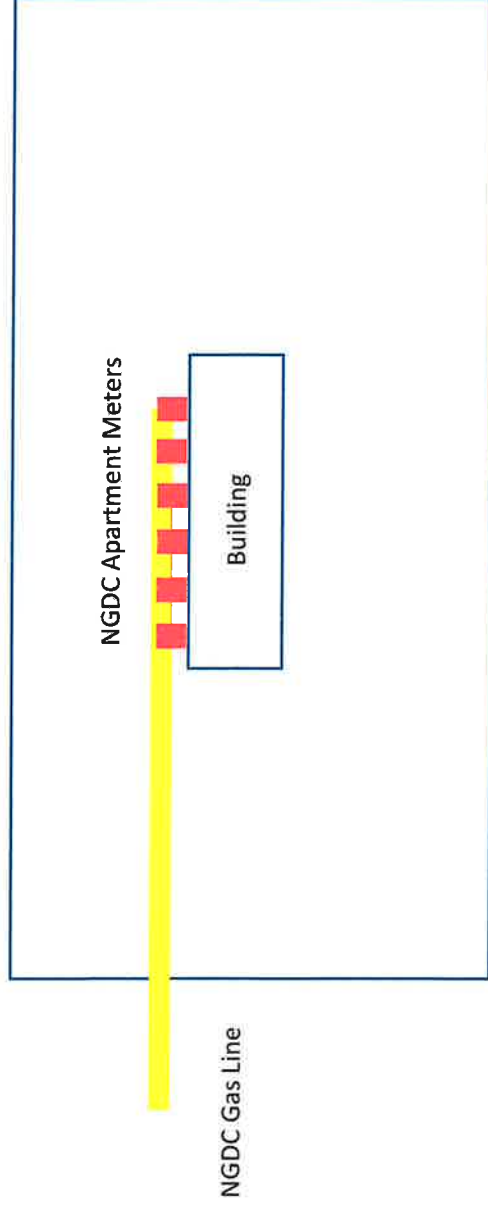
**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 2
Willow Run Apartments Meter**

9. Natural Gas delivered by NGDC to Apartment Meters billed direct by NGDC (Heat and Cooking)

WILLOW RUN APARTMENTS*

*electric Hot water



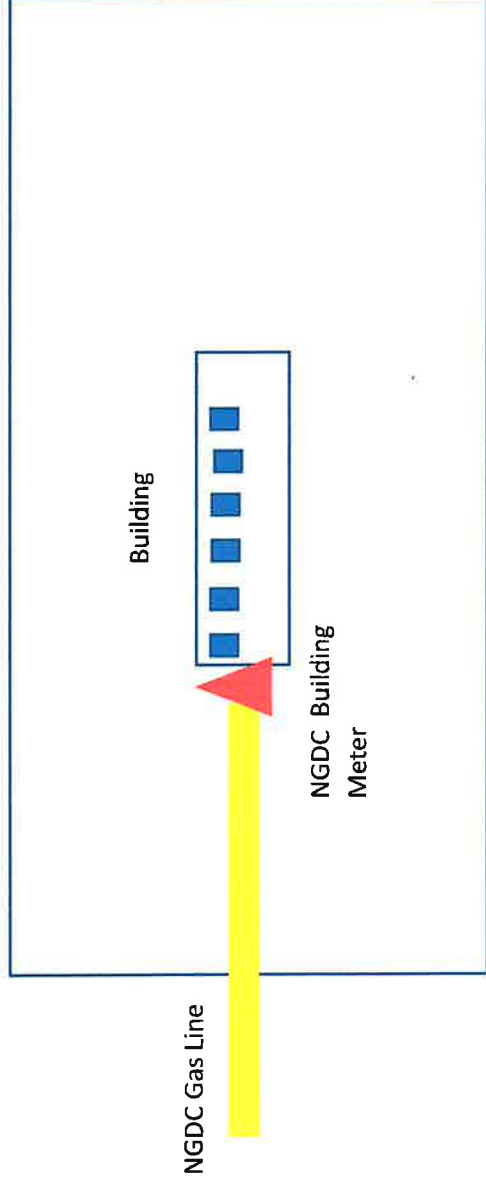
**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 3
Fox Run Apartments and
Paoli Place Apartments Meter**

2. Natural Gas delivered by NGDC to Meters on the Building. Each Apartment has a submeter to calculate NG bill

Ultimate Consumer of the Natural Gas					
	Heat	Hot Water	Cooking	Resident Pays	Resident Pays
	Resident	Westover	N/A (Electric)	Westover via Meter	Westover via Meter
FOX RUN APARTMENTS					
PAOLI PLACE APARTMENTS					
Paoli North Bldgs. A - K	Resident	Westover	N/A (Electric)	Westover via Meter	Westover via Meter
Paoli North Bldgs. L - R	Resident	Resident	N/A (Electric)	NDGC Direct	NDGC Direct
Paoli South (Arms) Bldgs. A - D (w/ the exception of AB01)	Westover	Westover	Resident	Included in Rent	Included in Rent
South Valley Townhomes Bldgs. A - G (with the exception of VA07 & VB07)	Resident	Resident	N/A (Electric)	NDGC Direct	NDGC Direct
AB01					
VA07					
VB07					



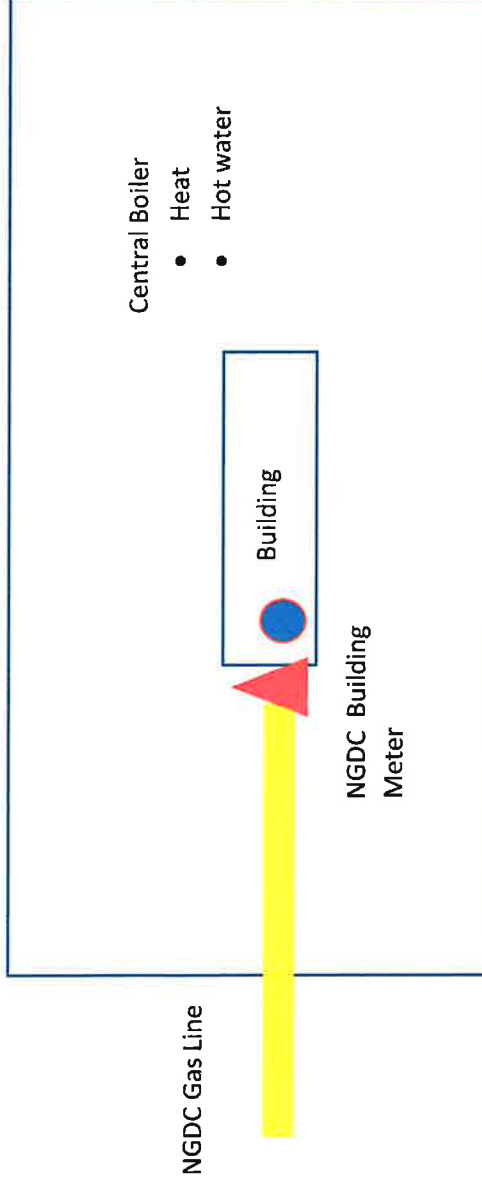
**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 4
Lansdale Village Apartments
Woodland Plaza and
Concord Court Apartments Meter**

1. Natural Gas delivered by NGDC to Meters on the Building. Building has central boiler for Heat and Hot Water. Residents are billed with Allocation (RUBS)

Ultimate Consumer of the Natural Gas				
	Heat	Hot Water	Cooking	Resident Pays
LANSDALE VILLAGE APARTMENTS	Westover	Westover	N/A (Electric)	Westover via Allocation
WOODLAND PLAZA	Westover	Westover	Resident	Westover via Allocation
CONCORD COURT APARTMENTS	Westover	Westover	N/A (Electric)	Westover via Allocation



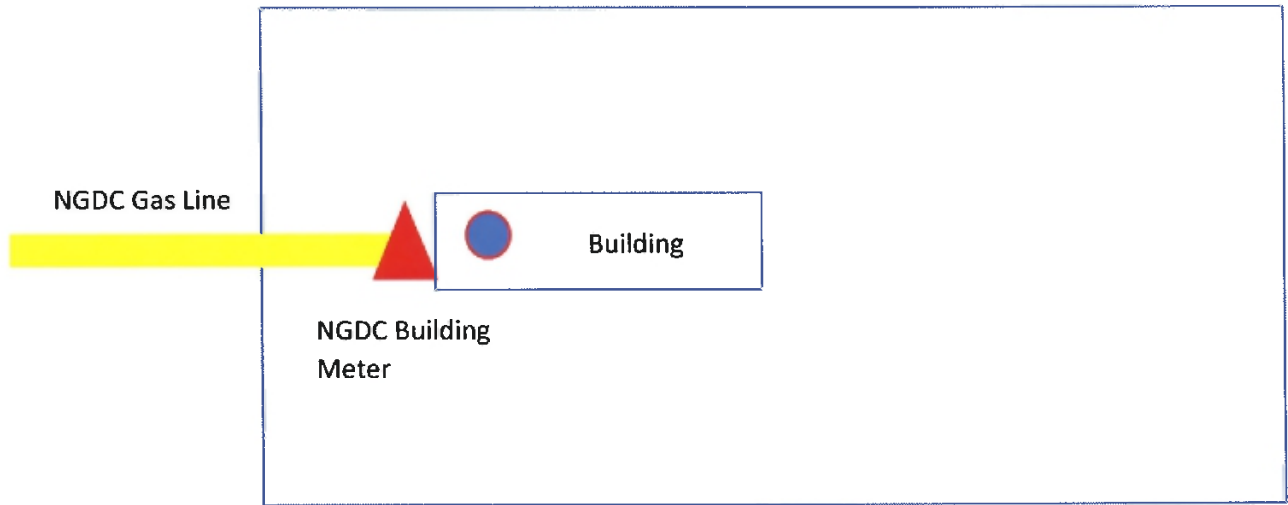
**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 5
Black Hawk Apartments
Country Manor Apartments and
Norriton East Apartments and
Mill Creek Village Apartments II Meter**

3. Natural Gas delivered by NGDC to Meters on the Building. Building has central boiler for Heat and Hot Water. Included in Rent

Ultimate Consumer of the Natural Gas				
	<u>Heat</u>	<u>Hot Water</u>	<u>Cooking</u>	<u>Resident Pays</u>
BLACK HAWK APARTMENTS	Westover	Westover	Electric	Included in Rent
COUNTRY MANOR APARTMENTS	Westover	Westover	Resident	Included in Rent
NORRITON EAST APARTMENTS	Westover	Westover	Resident	Included in Rent
MILL CREEK VILLAGE APARTMENTS II	Westover	Westover	Resident	Included in Rent



**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 6
Letter to D. Ledversis Re Jurisdiction
Status of Gas Distribution System
at Bryant College
(dated February 14, 2003)**

PI-03-0101

U.S. Department of Transportation
Research and Special Programs Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

February 14, 2003

Mr. Don A. Ledversis
Pipeline Safety Engineer
Rhode Island Division of Public Utilities & Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Dear Mr. Ledversis:

This is in response to your request of January 25, 2002, for an interpretation of the jurisdictional status of the campus gas distribution system operated by Bryant College in Smithfield, Rhode Island. The question is whether the campus gas piping system is a *Master Meter* System subject to the gas pipeline safety regulations in 49 CFR Parts 191 and 192. The college claims that this system does not meet the definition of *Master Meter* System because it only uses gas to provide heat and hot water to the campus buildings and does not resell the gas.

To conclude that the Bryant College gas distribution pipeline facilities are subject to safety regulation, we need to determine that the system is a pipeline facility and that the gas is being delivered to consumers who, directly or indirectly, pay for the gas. *Master Meter* System is defined in the pipeline safety regulations at 49 CFR § 191.3:

.. a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

Pipeline facility is defined in the pipeline safety regulations at 49 CFR § 192.3:

...new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

Bryant College's system is clearly a pipeline facility. It distributes gas through underground pipelines to campus buildings. It does not appear to meet the definition of *Master Meter* System because it is using the gas delivered through its pipeline system to provide heat and hot water to campus buildings. In this instance the college would be the consumer of the gas.

However, if the Bryant College gas system provides gas to consumers, such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety regulations. The Bryant College pipeline system would then be a *Master Meter* System.

In conclusion, the Bryant College gas distribution system is a *Master Meter* System subject to pipeline safety regulation under 49 CFR Parts 191 and 192 if it is providing gas to customers in addition to providing heat and hot water to campus buildings.

If you have any further questions about the pipeline safety regulations, please contact me at (202) 366-4565.

Sincerely,
Richard D. Huriaux, P.E.
Manager, Regulations
Office of Pipeline Safety

**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

APPENDIX 7

**Letter to J. Collins from J. Caldwell
(Office of Pipeline Safety – Houston
Regional Field Office) Re: Whether
Master Meter Subject to Federal Gas
Pipeline Safety Regulations
(dated October 24, 1973)**

October 24, 1973

Mr. James H. Collins
Electrical-Mechanical Engineer
1310 Short Street
New Orleans, LA 70118

Dear Mr. Collins:

This is in response to your letter of September 25, 1973, to our Houston Regional Field Office which was forwarded to this office for reply.

Your letter indicates that the gas system concerned is an intermediate pressure (typically 25 psi) distribution system, serving the buildings on a college campus and owned by the college. Gas is supplied through a regulator-metering station from odorized mains of a gas service utility company. The system comprises approximately 4.5 miles of welded steel mains and service lines 5 inch to 1 1/2 inch diameter, serving 45 regulators at campus buildings, installed largely prior to 1970. Cathodic protection was installed in June 1971, monitored weekly at key points by owner-personnel, and checked so far at 16-month intervals by a corrosion engineer.

The gas system as described raises the jurisdictional question of whether the pipelines on the college campus constitute a master meter system subject to the Federal gas pipeline safety regulations or whether the college is the ultimate customer and therefore the lines in the college are not subject to the regulations. In order to assist you in making this determination, if the college owned gas system consumes the gas and provides another type of service such as heat or air conditioning, to the individual buildings, then the college is not engaged in the distribution of gas. In this instance the college would be the ultimate consumer, and the Federal pipeline safety standards would only apply to mains and service lines upstream of the meter.

If the college owned gas system provides gas to consumers such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety standards.

The answers to your specific questions are predicated on the assumption that this system is a distribution system subject to the jurisdiction of the Federal pipeline safety standards.

Question 1. Is an annual report on the monitoring and engineering check of the cathodic protection required to be made by the owner (the college) and if so on what Form?

Answer. Section 192.453 of the Code of Federal Regulations requires that all phases of work performed during design, installation, operation and maintenance including recordkeeping in connection with corrosion control be carried out by, or under the direction of a person qualified by experience and training in pipeline corrosion control methods.

An annual report to the Office of Pipeline Safety (OPS) on the monitoring and engineering check of the cathodic protection of a gas pipeline is not currently required and there are no Federal forms for this purpose. However §192.491 does require each operator to keep records in sufficient detail to demonstrate the adequacy of his corrosion control measures or that a corrosive condition does not exist.

Question 2. Is an annual report on leaks from any cause required to be made by the owner, and if so on what Form?

Answer. Section 191.11, 49 CFR requires that each operator of a distribution system submit an annual report on Department of Transportation Form DOT-F-7100.1-1 (copy enclosed) not later than February 15 for the preceding calendar year.

Your attention is also directed to Section 191.5, 49 CFR which sets out the requirements for telephonic notice of certain leaks by all gas operators.

Question 3. Is a gas detector leakage survey required by OPS regulations, per No. 192.723, and if so, per (b)(1) as in a business district at 1-year intervals, or per (b)(2) as a system outside of principal business areas, at intervals not exceeding 5-years. What Form is available for the report to OPS?

Answer. Your attention is directed to the language of paragraph (b) of Section 192.723, stating that the type and scope of the leakage control program must be determined by the nature of the operations and local conditions, but it must meet the minimum requirements of a gas detector survey (1) at least once a year in business districts, and (2) as frequently as necessary, but at least every 5 years, outside the principal business areas. In the interest of continuing safe pipeline operation it is contemplated by this section that whenever local conditions warrant it surveys will be conducted more frequently than once a year in business districts, and more frequently than every 5 years outside the municipal business areas. It follows that there may very well be instances in which conducting a survey only once a year in a particular business district, or only once in 5 years in a particular area outside of the principal business district would be considered inadequate. An evaluation of the potential hazard due to the nature of buildings such as those on campus and the specific condition and environment of the pipeline system could indicate that consideration to conducting leakage surveys "as frequently as necessary" would mean more frequently than the minimum interval of 5 years.

The answer to the recordkeeping and report filing requirement in question one also applies here.

Question 4. Are periodic tests of odorization per No. 192.625 required of the owner or is he covered by tests made by the supply utility company?

Answer. Section 192.625(f), 49 CFR, requires that each operator shall conduct periodic sampling of combustible gases to assure the proper concentration of odorant in accordance with this section. Based on the assumption that the college is operating a gas distribution system, periodic tests of odorization by the owner are required.

The enclosed literature includes Parts 190 and 192 which you requested.

We trust that this will clarify the matter for you. If we can be of further assistance to you, please let us know.

Sincerely,

\signed\

Joseph C. Caldwell
Director
Office of Pipeline Safety

Enclosures

**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

APPENDIX 8

**Letter to D. Chislea from USDOT Re
Interpretation of Regulations
PI-16-0012 and PI-73-0112
(dated September 21, 2020)**



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety Administration**

September 21, 2020

Mr. David J. Chislea
Manager of Gas Operations
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, MI 48917

Dear Mr. Chislea:

In a May 1, 2019, letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), you requested an interpretation of 49 Code of Federal Regulations (CFR) § 192.1. Specifically, you requested an interpretation for the applicability of 49 CFR Part 192 in regards to pipelines located within buildings.

You mentioned several PHMSA interpretations on master meter systems which, after a phone call with myself, we summarized into the following question:

Question: Interpretation PI-16-0012 states, “The definition for a master meter system does not prohibit regulation for non-buried gas pipelines. PHMSA does not regulate gas piping inside a building unless the interior piping is used by the gas pipeline operator to distribute gas.” However, interpretations PI-73-0112, PI-76-0114, and PI-01-0113 seem to contradict PI-16-0012. What is the reasoning why PI-16-0012 interprets the Mall of America’s inside gas pipeline as regulated while the other three interpret inside gas pipelines as not being regulated by Part 192?

Answer: PHMSA’s interpretations respond to a unique set of facts presented by the requestor. Should any of the facts change, PHMSA’s response would be subject to change. In addition, PHMSA’s interpretations reflect the agency’s application of the regulations to the specific facts presented by the person requesting the clarification. Prior interpretations given for a different set of facts are not generally applicable. They are provided to help the specific requestor understand how to comply with the regulations. Regarding the interpretations raised by your question, PHMSA does not see a contradiction between these interpretations. The location of gas pipelines is only one of many factors that determine whether a gas pipeline system is a master meter system or not.

Interpretation PI-73-0112 analyzes three master meter scenarios. It provides two characteristics that are common to several master meter systems. First, the “existence of underground or exterior piping serving multiple buildings” and second, “the transfer (sale) of gas (metered or unmetered) from the master meter system operator to the ultimate gas consumers (tenants) for use in the consumers’ appliances.”

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency’s current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations are not generally applicable, do not create legally-enforceable rights or obligations, and are provided to help the specific requestor understand how to comply with the regulations.

In the first scenario discussed by PI-73-0112, a gas line enters a residence unit, proceeds through the unit to serve various appliances, then leaves the unit and services other residence units in a like manner. The interpretation explained that “normally, interior piping is not considered subject to the regulations, [but] in this case where it is one continuous distribution line without separate risers or services for individual units and is under the sole control of the operator,” the interior segments are subject to the regulations to the same extent as the exterior and underground portions.

In scenario 2, PHMSA discusses a residential master meter system in which a gas line enters a multiple residence unit and travels throughout the residence unit tapping off services to the various residence units within the same building. PHMSA concluded the piping inside the wall is not subject to federal regulations because it is considered “customer piping.” PHMSA stated, “[b]ecause it is impractical in many situations to determine who owns the piping in a building, all the gas lines within a single building downstream of the “master” meter are considered by the OPS to be customer’s piping.” The example PHMSA provided was a condominium, in which all the unit owners may own the piping jointly and it is difficult to separate customer piping from a distribution line. PI-16-0012 (the Mall of America interpretation) is not analogous to a condominium. It is not difficult to determine who owns the interior piping in the Mall of America. The interior piping within the Mall of America is owned by the Mall. The customer piping is located within each store and is metered separately. The stores do not jointly and collectively own the Mall’s piping.

In scenario 3 described by PI-73-0112, PHMSA discussed a facility where a gas line leaves a master meter and travels through the ground, serving a plant unit, offices and other units. PHMSA determined it was not a master meter system because the gas was being used by company employees for company purposes on company property. PHMSA noted that, “[o]ne of the characteristics of a master meter system that makes it subject to the [pipeline safety] regulations [is] the transfer of gas from the operator (landlord) to other persons who are the ultimate consumers of the gas.” This principle is reaffirmed in the Mall of America interpretation. The ultimate consumer of gas in the Mall of America interpretation was the store tenants. The Mall, the landlord, distributes gas to the individual stores, who are the tenants.

In PI-76-0114, PHMSA added additional clarity to the classification of interior piping stating “interior piping is only subject to regulation when it is included in an operator’s system which is otherwise located outside.” Thus, interior piping is subject to regulation when it is part of a “regulated system” which would otherwise be located outside.

In PI-01-011, PHMSA found that a particular multi-family housing complex met the definition of a master meter system even if the tenants did not directly pay for utilities. The interpretation only briefly mentions that the interior piping within the buildings, beyond the first penetration of each building wall is non-jurisdictional. Again, this interpretation discussing a particular multi-family housing complex is not analogous to Mall of America, which has many business customers with separate accounts and separate risers.

Moreover, the Mall of America interpretation aligns with several interpretations PHMSA has issued concerning concessionaries on university campuses, a scenario that is analogous to the

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency’s current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations are not generally applicable, do not create legally-enforceable rights or obligations, and are provided to help the specific requestor understand how to comply with the regulations.

Mall of America's system unlike a multi-family housing complex. As noted in interpretations PI-73-030, PI-03-0101, and PI-17-0012, when a university sells gas to businesses, the university is distributing the gas, and the businesses are the ultimate consumer who either purchase the gas directly through a meter or by other means, such as by rents. These interpretations establish a key consideration when seeking to determine whether a system is a master meter: where does transportation end and consumption by the end user start?

As the Mall of America interpretation stated, gas pipelines inside buildings may be regulated where the gas piping is being used by the gas pipeline operator to transport gas to several businesses who are the ultimate consumers of the gas. If there is transportation of gas inside of a building, above ground or underground, Part 192 applies up to the custody transfer point between the gas distributor (LDC or master meter system operator) and the consumer.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,

**JOHN A
GALE**

Digitally signed by JOHN
A GALE
Date: 2020.09.30
08:02:48 -04'00'

John A. Gale
Director, Office of Standards
and Rulemaking

**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

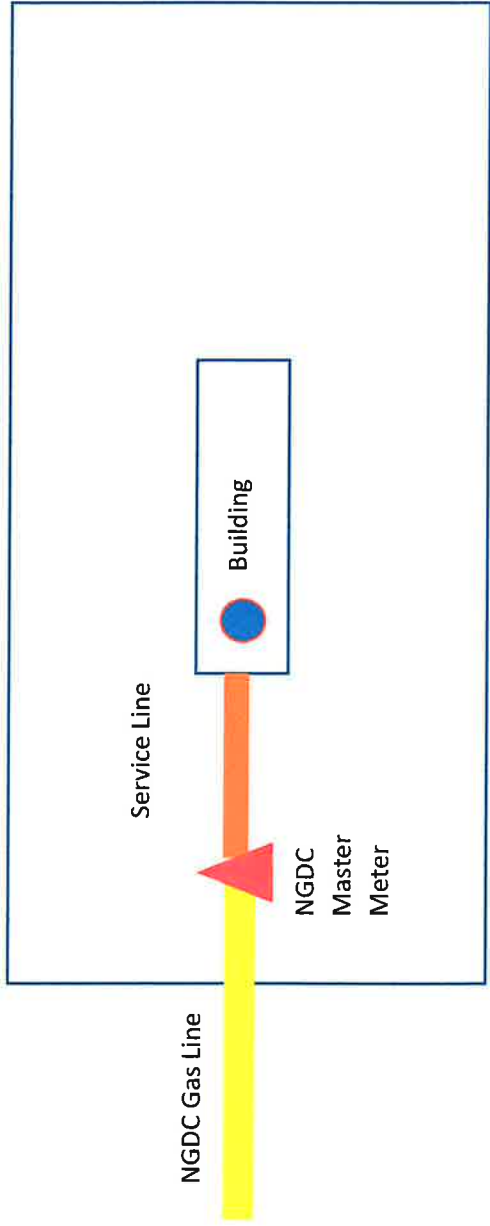
**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 9
Mill Creek Village Apartments I and
Oak Forest Apartments Meter**

5. Natural Gas delivered by NGDC to Apartment Complex meter. Service lines to each building to Central boiler for Heat and Hot Water and then to each apartment for cooking. Included in Rent

Ultimate Consumer of the Natural Gas

MILL CREEK VILLAGE APARTMENTS I		OAK FOREST APARTMENTS	
Heat	Hot Water	Cooking	Resident Pays
Westover	Westover	Resident	Included in Rent
Westover	Westover	Resident	Included in Rent



**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

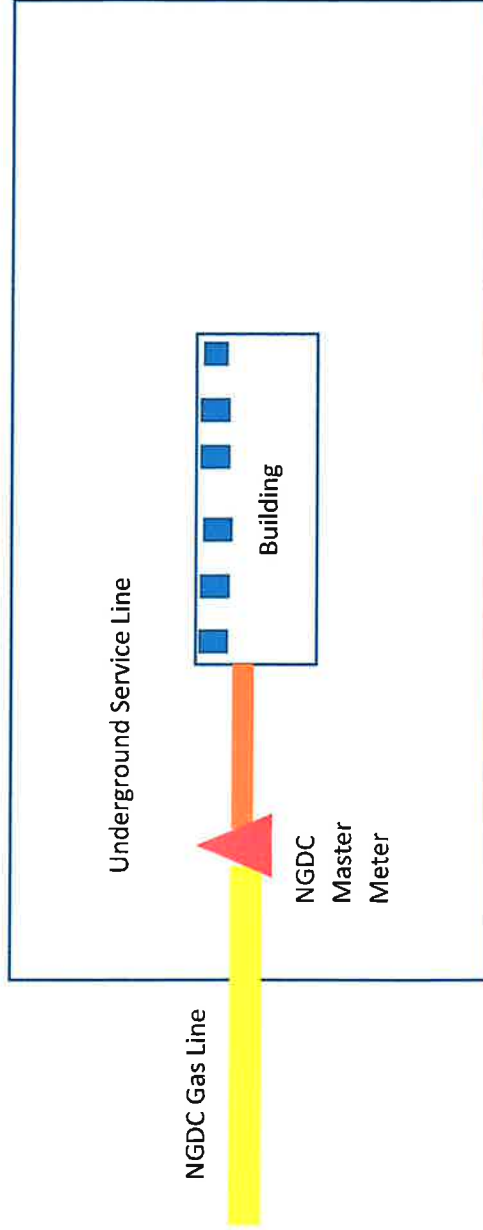
**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 10
Gladstone Towers Apartments,
Main Line Berwyn Apartments and
Lansdowne Towers Apartments Meter**

6. Natural Gas delivered by NGDC to Apartment Complex meter. Service lines to each apartment with a submeter to calculate NG bill

Ultimate Consumer of the Natural Gas

	Heat		Hot Water		Cooking		Resident Pays	
GLADSTONE TOWERS APTS. Exception 3rd Floor facing Railroad tracks	Resident	Resident	Westover	Westover	Resident	Resident	Westover via Meter	Westover via Meter
MAIN LINE BERWYN APTS	Resident	Resident	Resident	Resident	Electric	Electric	Westover via Meter	Westover via Meter
LANSLOWNE TOWERS APARTMENTS	Resident	Resident	Westover	Westover	Resident	Electric	Westover via Meter	Westover via Meter



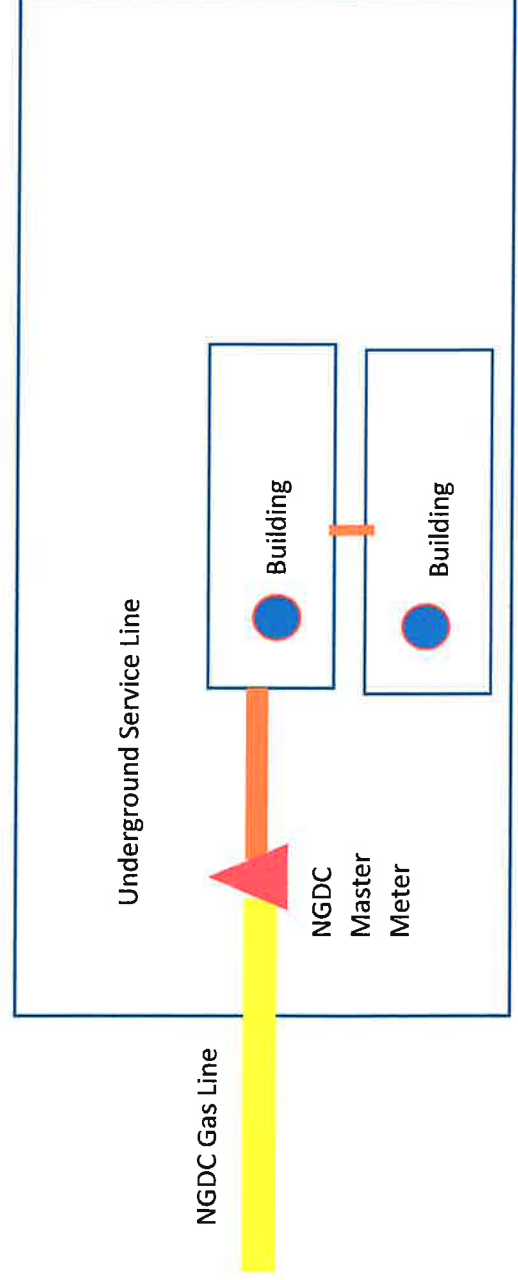
**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 11
Hillcrest Apartments,
Valley Stream Apartments and
Carlise Park Apartments Meter**

7. Natural Gas delivered by NGDC to Apartment Complex meter. Service lines to each building then to each apartment. Included in Rent

Ultimate Consumer of the Natural Gas					
	Heat	Hot Water	Cooking	Resident Pays	
HILLCREST APARTMENTS	Resident	Resident	Electric	Included in Rent	
Some units	Resident	Electric	Electric	Included in Rent	
VALLEY STREAM APARTMENTS					
A-N Buildings	Resident	Westover	Resident	Included in Rent	
O-V Buildings	Resident	Westover	Electric	Included in Rent	
CARLISLE PARK APARTMENTS	Resident	Electric	Resident	Included in Rent	



**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

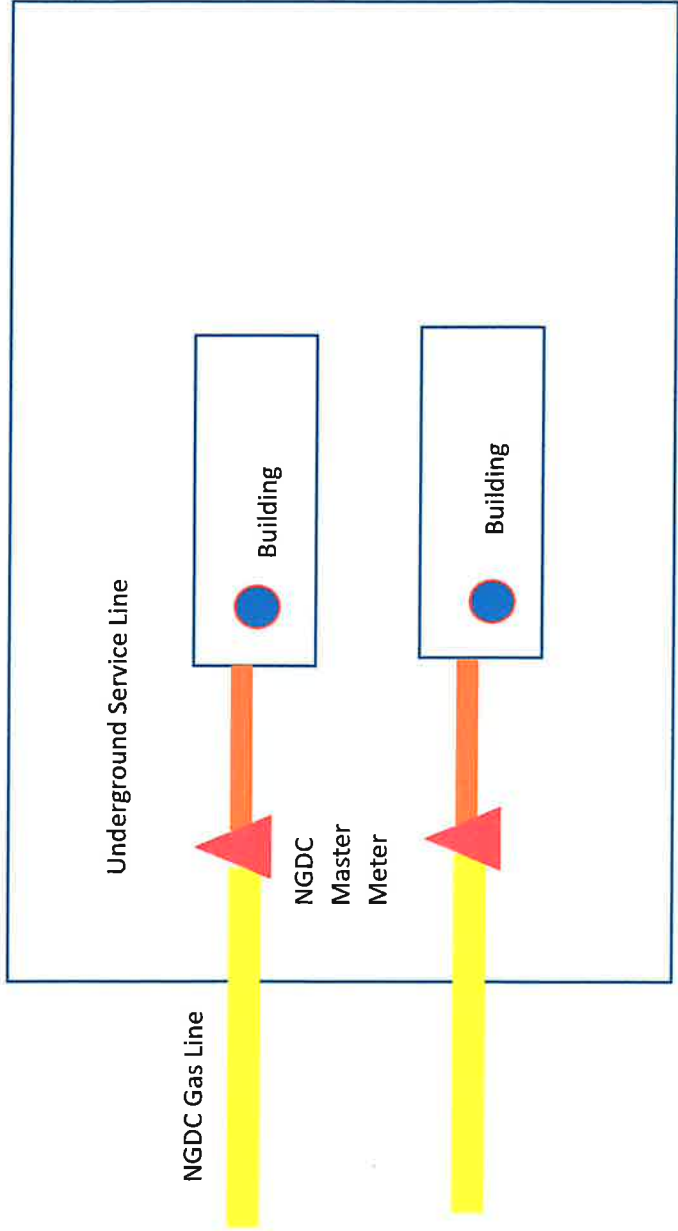
**APPENDIX 12
Park Court Apartments Meter**

8. Natural Gas delivered by NGDC to Two (2) Apartment Complex meter. Service lines to each building. Residents are billed with Allocation (RUBS)

Ultimate Consumer of the Natural Gas

Heat	Hot Water	Cooking	Resident Pays
Resident	Westover	Resident	Westover via Allocation

PARK COURT APARTMENTS



**In re: Petition of Westover Property Management Company, L.P.
d/b/a Westover Companies for a Declaratory Order
Regarding the Applicability of the Gas and
Hazardous Liquids Pipeline Act;
Docket No. P-2021-3030002**

**Amended Petition of Westover Companies
for Declaratory Order**

**APPENDIX 13
eFiling Re PA Pipeline Operator
Annual Registration Form
filed under Protest
(dated February 22, 2022)**



February 22, 2022

Via Electronic Submission Only

PAPUC
400 North Street
Harrisburg PA 17120

Regarding: Docket A-2021-3028141

To whom it may concern.

The attached transmission and filing fee are paid under protest based on the on-going proceedings at Docket Nos. P- 2021-3030002 and C-2022-3030251, in which we contend that we do not need to register pursuant to Act 127.

Sincerely,

Alexander Stefanelli
CFO

CC: Zambito, David DZambito@cozen.com
Nase, Jonathan JNase@cozen.com
Peter Quercetti





**Act 127
Pennsylvania Pipeline Operator Annual Registration Form**

Please submit completed form by March 31

Registration for Previous Calendar Year Ending: December 31, 2021

Docket Number: A-2021-3028141

If you need help getting your docket number,

- Go to www.puc.pa.gov > Filing & Resources > Issues, Laws & Regulations > Act 127 (Pipeline Act).
- On the Act 127 page you will see a link on the lower section of the page under Pipeline Operators Registry.
- Click on the link to "View Current List of Registered Pipeline Operators."
- Click on the utility code next to your name; find the Docket Number (A-2012-xxxxxx) under the Docketed Cases.

1. Registrant (Full name of pipeline operator): The Westover Companies

Comments: If applicable, explain any changes to your company name or legal status (acquisition, merger, etc.) in the past calendar year.

2. Types of Pipelines and/or Facilities.

Please note that natural gas public utilities are not required to file this form.

Pipelines and/or facilities covered by this form are associated with the following types of facilities and transport the following types of commodities: (select all that apply)

Gas Distribution

Natural Gas Propane Gas

Gas Transmission

Natural Gas
 Propane Gas
 Other Gas Define:

Gas Gathering

Hazardous Liquid
 Other Define:

3. Main Mailing Address:

Provide the address to which the Commission will serve all correspondence relating to this registration.

Street Address/P. O. Box: 550 AMERICAN AVE., SUITE 1
 City, State, Zip Code: KING OF PRUSSIA, PA 19406

4. Physical Address:

Provide the address of your primary Pennsylvania facility. This address is needed by the Commission to perform inspections and onsite visits.

Do not provide a post office box number.

Street Address: see attached Exhibit D
 City, State, Zip Code:

5. US DOT Operator ID Number:

Provide the number assigned to you by the United States Department of Transportation, Pipeline Hazardous and Materials Safety Administration (PHMSA).

40293

6. PA L&I Propane Registration Number:

Provide your propane registration number with the Pennsylvania Department of Labor and Industry (if applicable). If you do not have a number, please enter "N/A".

7.	Regulatory Contact Information: <i>Complete in full with contact information of the person in your company the Commission can contact for questions and other matters pertaining to your registration and operations.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
8.	Assessment Contact information: <i>Complete in full with contact information of the person in your company who is responsible for receiving the Commission's assessment (billing) invoices and paying the assessment under Act 127.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
9.	Federal EIN Number (if applicable):
10.	Pipeline Emergency (PEMA) Contact Information: <i>Complete in full with contact information of the person in your company who the Commission can call in an emergency situation. This information is critical to the Commission's interactions with the Pennsylvania Emergency Management Authority (PEMA).</i>
	Name: PETER QUERCETTI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: pquercetti@westovercompanies.com
	Telephone Number: (302) 388-3569
11.	Attorney (if applicable): <i>Complete this section only if an attorney is filing this registration form on your company's behalf.</i>
	Name:
	Street Address:
	City, State, Zip Code:
	Email Address:
	Telephone Number:
12.	Operational Information:
Comments: Report any newly installed pipeline, and explain any additions, deletions or variations since your previous year's registration.	

- Complete Attachments "A" and "B". For each Pennsylvania gas or hazardous liquids pipeline, provide the in-state mileage in operation as of December 31 of the prior year, by class and by county. Mileage should be reported for each individual pipe. Multiple pipelines in one trench are considered individual pipes for reporting purposes. If you have no miles to report on these attachments, check the appropriate block at the top of the form(s).
- Complete Attachment "C" by providing the country of manufacture and mileage data for all tubular steel products installed in the prior calendar year in Pennsylvania for the exploration, gathering or transmission of natural gas or hazardous liquids. If you have no data to report on this attachment, check the appropriate block at the top of the form.

13. Filing Fee:

The filing fee for this Annual Registration Form is \$250, payable to the "Commonwealth of Pennsylvania."
 The filing fee can either be mailed or electronically paid when eFiling your form with the Commission's eFiling system.
NOTE: If you are a Propane Distributor registered with the PA L&I or a Borough, you are exempt from paying this filing fee.

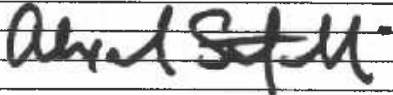
Fee Exemptions (please indicate if either exemption applies):

- Propane Distributor registered with PA L&I
- Borough

14. Verification:

The person responsible (corporate officer or attorney) for filing your Annual Registration Form must affix his or her signature and verify that all information provided on the form is true to the best of his or her knowledge, information and belief. NOTE: Registration Forms that are not verified will not be accepted for filing.

I hereby state that the information in this application is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Name:	Signature:
Alexander Stefanelli	
Title:	Date:
CFO	2/22/2022

15. Registration:

eFiling:

Registration Forms may be eFiled with the PUC. If eFiling your renewal form, go to <http://www.puc.pa.gov> and click on the eFiling link on the bottom of the page under Issues, News & Reports. Please choose "Existing Case" as the type of filing and enter your docket number where indicated.

By mail:

Send original, signed copy of registration form along with attachments and filing fee (if applicable) to:

Secretary, PA Public Utility Commission
 Keystone Building, 2nd Floor
 400 North Street
 Harrisburg, PA 17120

Reminders:

- It is the responsibility of registrants to keep the Commission notified of any changes to your contact information by providing notice, in writing, to the Commission's Secretary at the above address.
- Incomplete registration forms or those missing any attachments are unacceptable for filing and will be delayed for processing until the required information is sent to the Commission's Secretary's Bureau. If you require assistance or have questions when completing this form, call 717-772-7777.
- Registrations are public records. Accordingly, DO NOT place social security numbers, credit card numbers, bank account numbers or other confidential information on the registration form.

*****PLEASE KEEP A COPY OF YOUR COMPLETED REGISTRATION FORM FOR YOUR RECORDS*****

Additional Comments: Use this section to add any additional information:

Hazardous Liquids Lines
Calendar Year Ending: December 31, 2021
Pipeline Operator: The Westover Companies

Please check here if you have no reportable Hazardous Liquids Lines

Please report mileage to the nearest 1/10th of a mile.

HCA = High Consequence Area

County	Intrastate		Interstate		Total
	Non-HCA	HCA	Non-HCA	HCA	
Adams					0.0
Allegheny					0.0
Armstrong					0.0
Beaver					0.0
Bedford					0.0
Berks					0.0
Blair					0.0
Bradford					0.0
Bucks					0.0
Butler					0.0
Cambria					0.0
Cameron					0.0
Carbon					0.0
Centre					0.0
Chester					0.0
Clarion					0.0
Clearfield					0.0
Clinton					0.0
Columbia					0.0
Crawford					0.0
Cumberland					0.0
Dauphin					0.0
Delaware					0.0
Elk					0.0
Erie					0.0
Fayette					0.0
Forest					0.0
Franklin					0.0
Fulton					0.0
Greene					0.0
Huntingdon					0.0
Indiana					0.0
Jefferson					0.0
Juniata					0.0
Lackawanna					0.0
Lancaster					0.0
Lawrence					0.0
Lebanon					0.0
Lehigh					0.0
Luzerne					0.0
Lycoming					0.0
McKean					0.0
Mercer					0.0
Mifflin					0.0
Monroe					0.0
Montgomery					0.0

Montour					0.0
Northampton					0.0
Northumberland					0.0
Perry					0.0
Philadelphia					0.0
Pike					0.0
Potter					0.0
Schuylkill					0.0
Snyder					0.0
Somerset					0.0
Sullivan					0.0
Susquehanna					0.0
Tioga					0.0
Union					0.0
Venango					0.0
Warren					0.0
Washington					0.0
Wayne					0.0
Westmoreland					0.0
Wyoming					0.0
York					0.0
Total	0.0	0.0	0.0	0.0	0.0

Attachment B

Mileage
 Calendar Year Ending: December 31, 2021
 Pipeline Operator: The Westover Companies

Please check here if you have no miles to report

Act 127 mileage reporting for this form should not include any pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

Please report mileage to the nearest 1/10th of a mile.

County	Number of Farm Taps	Class 1 Gathering (Conventional)	Class 1 Gathering (Unconventional)	Gathering, Transmission & Distribution				
				Class 1 Transmission & Distribution	Class 2 Gathering Transmission & Distribution	Class 3 Gathering Transmission & Distribution	Class 4 Gathering Transmission & Distribution	Total Class 1 T&D + Class 2+3+4 G,T&D
Adams								0.0
Allegheny								0.0
Armstrong								0.0
Beaver								0.0
Bedford								0.0
Berks						0.4		0.4
Blair								0.0
Bradford								0.0
Bucks						0.4		0.4
Butler								0.0
Cambria								0.0
Cameron								0.0
Carbon								0.0
Centre								0.0
Chester						0.4		0.4
Clarion								0.0
Clearfield								0.0
Clinton								0.0
Columbia								0.0
Crawford								0.0
Cumberland						0.4		0.4
Dauphin								0.0
Delaware						0.9		0.9
Elk								0.0
Erie								0.0
Fayette								0.0
Forest								0.0
Franklin								0.0
Fulton								0.0
Greene								0.0
Huntingdon								0.0
Indiana								0.0
Jefferson								0.0
Juniata								0.0
Lackawanna								0.0
Lancaster								0.0
Lawrence								0.0
Lebanon								0.0
Lehigh								0.0
Luzerne								0.0
Lycoming								0.0

McKean								0.0
Mercer								0.0
Mifflin								0.0
Monroe								0.0
Montgomery						1.1		1.1
Montour								0.0
Northampton								0.0
Northumberland								0.0
Perry								0.0
Philadelphia								0.0
Pike								0.0
Potter								0.0
Schuylkill								0.0
Snyder								0.0
Somerset								0.0
Sullivan								0.0
Susquehanna								0.0
Tioga								0.0
Union								0.0
Venango								0.0
Warren								0.0
Washington								0.0
Wayne								0.0
Westmoreland								0.0
Wyoming								0.0
York								0.0
Total	0.0	0.0	0.0	0.0	0.0	3.6	0.0	3.6

Primary	Heating Type	PUC	Address	City State Zip	County	Units	Zip
<u>Carlisle Park</u>	Gas	Y	525 Third Street	Carlisle, PA 17013	Cumberland County	208	17013
<u>Gladstone Towers</u>	Gas	Y	223 Scoldale Road	Lansdowne, PA 19050	Delaware County	121	19050
<u>Hillcrest</u>	Gas	Y	785 W. Providence Road	Lansdowne, PA 19050	Delaware County	84	19050
<u>Lansdowne Towers</u>	Gas	Y	772 E. Providence Road	Alden, PA 19018	Delaware County	231	19018
<u>Main Line Berwyn</u>	Gas	Y	750 Old Lancaster Road	Berwyn, PA 19312	Chester Count	180	19312
<u>Mill Creek</u>	Gas	Y	255 E. Lincoln Highway	Pandol, PA 19407	Bucks County	174	19407
<u>Norriton East</u>	Gas	Y	2520 Dekalb Pike	East Norriton, PA 19401	Montgomery County	80	19401
<u>Oak Forest</u>	Gas	Y	2220 Alsace Road	Reading, PA 19804	Berks County	143	19804
<u>Park Court</u>	Gas	Y	28 S. Water Street	Womelsdorf, PA 19587	Berks County	66	19587
<u>Valley Stream</u>	Gas	Y	2100 N. Line Street	Lansdale, PA 19446	Montgomery County	242	19446
<u>Willow Run</u>	Gas	Y	3505 Moreland Road, # E-621	Willow Grove, PA 19090	Montgomery County	172	19090
						1608	

Eth D

Primary	Property Type	Natural Gas	Address	City State Zip	SQ FT
<u>Bryn Mawr Medical Building</u>	Commercial		600 & 931 Haverford Road	Haverford, PA 19041	82056

Exh D



October 28, 2022

VIA E-FILING

David P. Zambito

Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

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. Westover Property Management Company, L.P.; Docket Nos. C-2022-3030251 and P-2021-3030002

Petition of Westover Property Management Company, L.P. d/b/a Westover Companies for Review and Answer to Material Questions and for Immediate Stay of Proceeding

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") is the above-referenced Petition. **Please note that the Petition includes a request for an immediate stay of this proceeding pending disposition of the Petition. Westover Property Management Company, L.P. d/b/a Westover Companies respectfully requests that the Commission expedite disposition of this request.**

Copies have been served as shown on the enclosed certificate of service.

Please contact me if you have any question or concern. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for
Pennsylvania-American Water Company

DPZ/kmg
Enclosures

cc: Deputy Chief Administrative Law Judge Christopher P. Pell
ra-OSA@pa.gov
Per Certificate of Service
Peter Quercetti
Alexander Stefanelli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of October, 2022 served the foregoing **Petition of Westover Property Management Company, L.P. d/b/a Westover Companies for Review and Answer to Material Questions and for Immediate Stay of Proceeding**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

Stephanie M. Wimer, Esq.
Kayla L. Rost, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120
stwimer@pa.gov
karost@pa.gov



David P. Zambito, Esq.
Counsel for *Westover Property Management Company, L.P. d/b/a Westover Companies*

VERIFICATION

I, Alexander Stefaulli, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 10/27/22

Alexander Stefaulli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	

**PETITION OF WESTOVER PROPERTY MANAGEMENT COMPANY, L.P. D/B/A
WESTOVER COMPANIES FOR REVIEW AND ANSWER TO MATERIAL
QUESTIONS AND FOR IMMEDIATE STAY OF PROCEEDING**

AND NOW COMES, Westover Property Management Company, L.P., d/b/a Westover Companies (“Westover”), pursuant to 52 Pa. Code § 5.302, to file this Petition for Review and Answer to Material Questions (“Petition”). The Material Questions presented are:

1. Do Westover’s apartment complexes meet the definition of a “master meter system” in 49 CFR § 191.3 where: Westover takes delivery of the natural gas from a state-regulated natural gas distribution company (“NGDC”) on the grounds of the apartment complex in Pennsylvania, consumes some of the gas, and resells the remainder exclusively to tenants in the apartment complex in Pennsylvania?
2. Does the Gas and Hazardous Liquids Pipelines Act (“Act 127”) apply to Westover’s apartment complexes, considering the facts in question #1?

Westover respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) answer both Material Questions in the negative.

Westover also respectfully requests that the Commission immediately stay this proceeding pending an order on this Petition. Deputy Chief Administrative Law Judge Christopher P. Pell (the “ALJ”) has ordered¹ Westover to answer extensive discovery (by November 14, 2022)

¹ Interim Order Addressing Motions to Compel Filed by Westover Property Management Company, L.P. and the Bureau of Investigation and Enforcement (issued October 25, 2022) (the “Interim Order”).

pertaining to whether Westover has complied with Federal pipeline safety laws.² Westover asks that the Commission determine the threshold jurisdictional question before the parties litigate any remaining issues.

This consolidated proceeding involves Westover's Petition for Declaratory Order asking the Commission to find that Westover is not subject to Act 127, and the Bureau of Investigation and Enforcement' ("I&E's") Complaint alleging that Westover violated Act 127. 52 Pa. Code § 5.302 allows a party to seek interlocutory review of and answer to a material question that has arisen or is likely to arise. Interlocutory review will expedite the conduct of this proceeding by resolving several potentially dispositive questions. If the Commission would find that Westover does not own/operate a "master meter system" as defined in 49 CFR § 191.3, or that Act 127 does not apply to an apartment complex that takes gas from an NGDC and resells it to consumers, the Commission would lack jurisdiction over Westover's gas facilities and these cases could be concluded. Even if these cases are not concluded, this proceeding would be expedited because the number of issues to be litigated could be substantially reduced by a Commission order on the Material Questions.³ Otherwise, the parties and the Commission will need to devote substantial resources litigating these cases based on the specific facts concerning each Westover apartment complex. The Material Questions present purely legal issues involving no disputed material facts.

Westover submits that its gas systems are not "master meter systems" to the extent that Westover consumes the gas that Westover purchases. To the extent that Westover resells the gas

² Act 127 defines the "Federal pipeline safety laws" as: "The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts." 58 P.S. § 801.102 ("Definitions").

³ I&E's complaint identified seventeen Westover apartment complexes as "master meter systems." To the extent that Westover's gas facilities are different at these apartment complexes, the parties must litigate the facts and law pertaining to each apartment complex. If the Commission would address the Material Questions, the proceedings could be expedited by resolving the parties' controversy with regard to some or all of these apartment complexes.

to end-users, Westover's systems are not "master meter systems" because: (1) Westover's equipment and facilities are located entirely within its apartment complexes and only serve tenants in its apartment complexes; and (2) Westover is not the "operator" of a pipeline system because an operator engages in the "transportation of gas," which is defined as "the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting interstate or foreign commerce." 49 CFR § 191.3. Westover's systems do not purchase, sell or transport gas "in or affecting" interstate commerce.

Moreover, Act 127 was not intended to apply to apartment complexes that take gas from a Commission-regulated public utility (which is explicitly excluded from the definition of a "pipeline operator" in Act 127) and resells it to the ultimate consumer (who is also explicitly excluded from the definition of a "pipeline operator" in Act 127).⁴

WHEREFORE, for the reasons set forth above, Westover respectfully requests that the Commission grant an immediate stay of this proceeding, grant interlocutory review, and answer the Material Questions in the negative.

Respectfully submitted,



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Date: October 28, 2022

⁴ The Pennsylvania Legislature could have granted jurisdiction to the Commission to regulate apartment complexes, but did not do so. As an agency created by the General Assembly, the Commission only has the power given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).



November 7, 2022

VIA E-FILING

David P. Zambito

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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. Westover Property Management Company, L.P.; Docket Nos. C-2022-3030251 and P-2021-3030002

Westover Property Management Company, L.P. d/b/a Westover Companies' Brief in Support of Petition for Review and Answer to Material Questions and for Immediate Stay of Proceeding

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") is the above-referenced Brief. Copies have been served as shown on the enclosed certificate of service.

Please contact me if you have any question or concern. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for
Pennsylvania-American Water Company

DPZ/kmg
Enclosures

cc: Deputy Chief Administrative Law Judge Christopher P. Pell
ra-OSA@pa.gov
Per Certificate of Service
Peter Quercetti
Alexander Stefanelli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 7th day of November, 2022 served the foregoing **Westover Property Management Company, L.P. d/b/a Westover Companies' Brief in Support of Petition for Review and Answer to Material Questions and for Immediate Stay of Proceeding**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	

**BRIEF OF WESTOVER PROPERTY MANAGEMENT COMPANY, L.P D/B/A
WESTOVER COMPANIES IN SUPPORT OF ITS PETITION FOR INTERLOCUTORY
REVIEW AND ANSWER TO MATERIAL QUESTIONS AND FOR IMMEDIATE STAY
OF PROCEEDING**

AND NOW COMES, Westover Property Management Company, L.P., d/b/a Westover Companies (“Westover”), pursuant to 52 Pa. Code § 5.302(b), to submit this brief in support of the Petition for Interlocutory Review and Answer to Material Questions and for Immediate Stay of Proceeding (“Petition”) filed by Westover on October 28, 2022. The Material Questions presented for consideration are:

1. Do Westover’s apartment complexes meet the definition of a “master meter system” in 49 CFR § 191.3 where: Westover takes delivery of the natural gas from a state-regulated natural gas distribution company (“NGDC”) on the grounds of the apartment complex in Pennsylvania, consumes some of the gas, and resells the remainder exclusively to tenants in the apartment complex in Pennsylvania?

2. Does the Gas and Hazardous Liquids Pipelines Act (“Act 127”) apply to Westover’s apartment complexes, considering the facts in question #1?

Westover respectfully requests that the Pennsylvania Public Utility Commission (“Commission”) answer both Material Questions in the negative.

Westover also respectfully requests that the Commission immediately stay this proceeding pending the disposition of this Petition. Deputy Chief Administrative Law Judge Christopher P.

Pell (the “ALJ”) has ordered¹ Westover to answer extensive discovery pertaining to whether Westover has complied with Federal pipeline safety laws.² Westover asks that the Commission determine the threshold jurisdictional question before the parties litigate any remaining issues.

I. PROCEDURAL HISTORY

On December 13, 2021, Westover filed a Petition for Declaratory Order (the “Original Petition”). On May 16, 2022, Westover filed an Amended Petition for Declaratory Order (“Amended Petition”). Both the Original Petition and the Amended Petition asked the Commission to declare that the gas facilities at Westover’s apartment complexes are not subject to Act 127. The Bureau of Investigation and Enforcement (“I&E”) filed Answers opposing the Original Petition and the Amended Petition. On January 3, 2022, I&E filed a formal complaint (“Complaint”) alleging that Westover is a “pipeline operator” pursuant to Act 127 because it operates “master meter systems,” as defined in 49 CFR § 191.3. Westover’s Amended Petition and I&E’s Complaint have been consolidated for purposes of adjudication and disposition and are currently pending before the ALJ.

II. UNDISPUTED FACTS

Westover owns/operates multiple apartment complexes in Pennsylvania. At some of these apartment complexes, Westover purchases gas from a Commission-regulated NGDC. At all of the apartment complexes at which Westover purchases gas, the gas is delivered to Westover at a point in Pennsylvania on the grounds of the apartment complex. Additionally, at all of the apartment complexes at which Westover purchases gas, all of Westover’s gas facilities are located entirely

¹ Interim Order Addressing Motions to Compel Filed by Westover Property Management Company, L.P. and the Bureau of Investigation and Enforcement (issued October 25, 2022) (the “Interim Order”).

² Act 127 defines the “Federal pipeline safety laws” as: “The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts.” 58 P.S. § 801.102 (“Definitions”).

on the grounds of the apartment complex in Pennsylvania. Westover consumes some of the gas that it purchases. The remainder is resold to Westover's tenants; Westover has no gas customers who are not tenants. All of the gas that is resold to tenants is delivered to them at a point on the grounds of the apartment complex in Pennsylvania, without being transported across a state line.

III. THE COMMISSION SHOULD ANSWER THE MATERIAL QUESTIONS

The Commission's regulations permit a party to file a petition asking the Commission to review and answer a material question which has arisen or is likely to arise. The petition must state the compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceeding. 52 Pa. Code § 5.302(a).

In this case, interlocutory review will expedite the conduct of the proceeding by resolving several potentially dispositive questions. 52 Pa. Code § 5.302(a). If the Commission finds that Westover is not subject to Act 127, or does not own/operate a "master meter system," the Commission would lack jurisdiction over Westover's gas facilities and these cases could be concluded quickly. Even if these cases are not concluded, this proceeding would be expedited because the number of issues that the parties would be required to litigate could be substantially reduced by a Commission order on the Material Questions.³ Without a Commission order on the Material Questions, the parties and the Commission will need to devote substantial resources litigating these cases based on the specific facts concerning each Westover apartment complex. The Material Questions present purely legal issues involving no disputed material facts.

³ I&E's complaint identified seventeen Westover apartment complexes as "master meter systems." To the extent that Westover's gas facilities are different at these apartment complexes, the parties must litigate the facts and law pertaining to each apartment complex. If the Commission would address the Material Questions, the proceedings could be expedited by resolving the parties' controversy with regard to some or all of these apartment complexes.

IV. THE COMMISSION SHOULD ANSWER THE MATERIAL QUESTIONS IN THE NEGATIVE

A. The Commission Should Find that Westover’s Systems are not “Master Meter Systems” as Defined in the Federal Pipeline Safety Laws

Material Question #1 is:

1. Do Westover’s apartment complexes meet the definition of a “master meter system” in 49 CFR § 191.3 where: Westover takes delivery of the natural gas from a state-regulated natural gas distribution company (“NGDC”) on the grounds of the apartment complex in Pennsylvania, consumes some of the gas, and resells the remainder exclusively to tenants in the apartment complex in Pennsylvania?

Westover respectfully submits that the Commission should answer this question in the negative because Westover’s facilities do not satisfy several elements of the test of a “master meter system.”

1. Background

In its Complaint, I&E alleges that Westover is in violation of Act 127, which gave the Commission authority to regulate “pipeline operators.” A “pipeline operator” is a person that owns or operates equipment or facilities for the transportation of gas by a pipeline regulated pursuant to the “Federal pipeline safety laws.” 58 P.S. § 801.102 (“Definitions”). Public utilities and consumers are excluded from the definition of a “pipeline operator.” *Id.*

I&E alleges that Westover owns/operates “master meter systems,” which are defined in 49 CFR § 191.3 as:

Master Meter System means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents[.]

Based on this definition, any Westover system would only constitute a “master meter system” if that system satisfies *all four elements* of the following test:

- The apartment complex must have a pipeline system for distributing gas within, but not limited to, a definable area, such as an apartment complex.
- Westover must be the operator of the pipeline system. An “operator” is defined as “a person who engages in the transportation of gas.” 49 CFR § 191.3. The “transportation of gas” is defined as “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in or affecting interstate or foreign commerce.” *Id.*
- Westover must purchase metered gas from an outside source.
- Westover must resell that gas to the ultimate consumer through a gas distribution pipeline system. The ultimate consumer must purchase the gas from Westover directly through a meter or by other means (such as by rents).

To the extent that Westover consumes the gas it purchases, it fails to meet the fourth element of the test of a master meter system. In that situation, Westover is the ultimate customer; it does not resell the gas to the ultimate customer. Westover respectfully requests that the Commission so hold.

The next question before the Commission is: Are Westover’s systems “master meter systems” to the extent that Westover resells the gas to tenants? For the reasons set forth below, Westover respectfully submits that the Commission should find that Westover’s resale of the gas to tenants does not satisfy the first or second elements of the “master meter system” test.

2. Westover’s Systems Are Not “Master Meter Systems” Because They Are Only Located Within Westover’s Apartment Complexes, and They Only Serve Customers Within Westover’s Apartment Complexes

As stated above, a master meter system distributes “gas *within, but not limited to, a* definable area, such as [an] . . . apartment complex.” 49 CFR § 191.3 (emphasis added). Westover’s systems, however, are entirely within the definable area of Westover’s apartment complexes. At every apartment complex at which Westover has a gas system, Westover receives the gas at a point within its apartment complex and delivers it to customers at a point within its apartment complex. Westover does not own/operate any gas facilities that are located off the

property of its apartment complexes, nor does Westover provide gas service to any customers outside the boundaries of its apartment complexes. All of Westover's customers are tenants.

The rules of statutory construction apply to regulations. *P.S.P., Bureau of Liquor Control Enforcement v. Benny Enterprises, Inc.*, 669 A.2d 1018, 1021 (Pa. Cmwlth. 1996), *appeal denied*, 681 A.2d 1344 (Pa. 1996). One rule of statutory construction is that a statute is to be construed to give effect to every word. *Habecker v. Nationwide Ins. Co.*, 445 A.2d 1222, 1226 (Pa. Super. 1982). The Commission therefore must give effect to the terms “within, but not limited to” an apartment complex in the definition of a “master meter system.” If the Commission gives effect to those words, none of Westover's apartment complexes would be “master meter systems” because each system is limited to the definable area of the apartment complex.

This interpretation of the definition of a “master meter system” is consistent with the result described in **Exhibit 1** (“Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions” dated February, 2014⁴). In that document, the Commission advised the public that Act 127 applies to “master meter systems that provide service to property owned by third parties”⁵ but not “master meter systems serving their own property.”⁶ There is no reason for the Commission to deviate from this long-standing interpretation of Act 127.

Consequently, Westover respectfully submits that, to the extent that Westover's gas equipment and facilities are located entirely within Westover's apartment complexes, and do not serve customers other than tenants located within Westover's apartment complexes, those gas systems do not satisfy the first element of the test of a “master meter system” under the Federal pipeline safety laws. To this extent, Act 127 does not apply to Westover's gas systems.

⁴ This document was retrieved from the Commission's website on October 18, 2022. It can be found at: https://www.puc.pa.gov/NaturalGas/pdf/Act127/12_Act127_FAQs.pdf

⁵ Answer to Question 6 “What is Considered a Pipeline Operator Under Act 127?”

⁶ Answer to Question 7 “What is Not Considered a Pipeline Operator Under Act 127?”

3. Westover’s Systems Are Not “Master Meter Systems” Because They Do Not Distribute Gas “In or Affecting Interstate Commerce”

As stated above, the second element of the test of a “master meter system” is that the operator of the system is engaged in the transportation of gas, which is defined in the Federal pipeline safety laws as “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, *in or affecting interstate or foreign commerce.*” 49 CFR § 191.3 (emphasis added). Westover respectfully requests that the Commission find that its gas systems are not “master meter systems” because none of its systems are “in or affecting” interstate or foreign commerce.⁷

49 U.S.C. § 60101(a)(8)(A) defines interstate or foreign commerce, as it pertains to gas, as commerce “(i) between a place in a State and a place outside that State; or (ii) that affects any commerce described in subclause (A)(i) of this clause.” Westover submits that its purchase, sale and transportation of gas is not “in” interstate or foreign commerce because it does not involve commerce between a place in a State and a place outside that State.

At each apartment complex at which Westover owns/operates a natural gas system, Westover purchases the gas from an NGDC at a point in Pennsylvania on the grounds of the apartment complex. This purchase is a transaction in intrastate commerce because an NGDC is an intrastate gas pipeline facility pursuant to the Federal pipeline safety laws. 49 U.S.C. § 60101(a)(9) defines an “intrastate gas pipeline facility” as a gas pipeline facility and gas transportation within a state that is not subject to the Federal Energy Regulatory Commission (“FERC”) pursuant to 15 U.S.C. § 717. An NGDC is not subject to FERC jurisdiction pursuant

⁷ The Commerce Clause permits Congress to regulate wholly local, intrastate economic activities that, in the aggregate, “substantially affect” interstate commerce. *United States v. Lopez*, 514 U.S. 549, 558-559 (1995). Nevertheless, since the definition of a “master meter system” explicitly requires that the operator be engaged in the transportation of gas, Westover submits that a gas system does not satisfy the definition of a “master meter system” unless that system engages in or affects interstate or foreign commerce. The alternative view (assuming that all apartment complexes that transport gas engage in or affect interstate or foreign commerce) effectively reads those words out of the regulation, which violates the rules of statutory construction. *Habecker, supra*.

to 15 U.S.C. § 717(c). Westover respectfully submits that its purchase of gas from an intrastate gas pipeline facility must be a transaction in intrastate commerce.

Westover then transports the gas to tenants on its property in Pennsylvania, without transporting the gas over a state line. As a result, Westover's transportation of the gas is entirely intrastate. Since Westover purchased the gas in intrastate commerce, and transported it intrastate, Westover submits that its sale of the gas to tenants in Pennsylvania is a transaction in intrastate commerce. Consequently, Westover submits that its gas systems are not "in" interstate or foreign commerce within the meaning of Section 60101(a)(8)(A)(i).

Furthermore, Westover respectfully submits that its purchase, sale and transportation of the gas does not "affect" interstate or foreign commerce within the meaning of Section 60101(a)(8)(A)(ii). Westover purchases the same amount of gas from the NGDC that its customers would have purchased if they had purchased the gas directly from the NGDC; Westover's purchase and resale of the gas does not increase or decrease the amount of the gas being purchased, sold or transported. Moreover, Westover's purchase, sale and transportation of the gas is so far removed from the last transaction in interstate or foreign commerce (the purchase of the gas by the NGDC) that it does not "affect" interstate or foreign commerce. For the reasons set forth above, Westover respectfully submits that, to the extent that Westover's gas systems resell gas, those gas systems do not satisfy the second element of the test of a "master meter system" under the Federal pipeline safety laws. As a result, Act 127 does not apply to Westover's gas systems.

B. The Commission Should Find that Act 127 Does not Apply to the Owner/Operator of an Apartment Complex

Material Question #2 is:

2. Does Act 127 apply to Westover's apartment complexes, considering the facts in question #1?

Westover respectfully submits that the Commission should answer this question in the negative.

1. Background

In its Amended Petition, Westover argued that Act 127 was not intended to apply to apartment complexes. Westover argued that the General Assembly enacted Act 127 in response to the growth of Marcellus Shale in Pennsylvania. The Pennsylvania General Assembly, in enacting Act 127, could have expressly included intrastate natural gas systems, such as Westover's, within the Commission's enforcement jurisdiction – but it did not. Construing Act 127 broadly would effectively give the PUC jurisdiction over every landlord in Pennsylvania that provides gas to its tenants using a master meter. There are likely hundreds, perhaps thousands, of such landlords. If the General Assembly intended to effect such a dramatic change in law and public policy, by giving the Commission authority to regulate these entities under Act 127, it would have said so explicitly. The fact that it did not do so reflects the General Assembly's intent that these entities would not be regulated by the Commission. *See, e.g.*, Amended Petition ¶¶ 16-17.

2. Act 127 was Not Intended to Apply to Apartment Complexes That Purchase Gas from a Commission-Regulated Public Utility and Resell it to Consumers (Both of Which are Explicitly Excluded from the Definition of a “Pipeline Operator”)

As an agency created by the General Assembly, the Commission has only the powers given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). As discussed above, Act 127 gave the Commission authority to regulate “pipeline operators,” which are defined as persons that own or operate equipment or facilities for the transportation of gas by pipeline regulated under Federal pipeline safety laws. 58 P.S. § 801.102 (“Definitions”). Public utilities and consumers are excluded from the definition of a “pipeline operator.” *Id.* To the extent that Westover is the ultimate consumer of the gas that it purchases from NGDCs, Westover is not a “pipeline operator” pursuant to Act 127. The issue is

whether Westover is a “pipeline operator” to the extent that it resells gas to its tenants. Westover respectfully submits that the Commission should answer this question in the negative.

In analyzing a statute, the starting point is the statute’s plain language. “When the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit.” 1 Pa. C.S. § 1921(b). An act is ambiguous when it is susceptible to more than one reasonable interpretation. *Adams Outdoor Advertising, L.P. v. Zon. Hrg. Bd. of Smithfield Twp.* 909A.2d 469, 483 (Pa. Cmwlth. 2006). Westover respectfully submits that the definition of “pipeline operator” is susceptible to more than one reasonable interpretation.

The Supreme Court of Pennsylvania has stated: “[W]e should not interpret statutory words in isolation, but must read them with reference to the context in which they appear.” *Roethlein v. Portnoff Law Assoc.*, 81 A.3d 816, 822 (Pa. 2013). Considering the definition of a “pipeline operator” as a whole, Westover respectfully submits that it is unclear how the statute applies to the fact scenario presented by this case. Westover submits that the General Assembly did not intend to make the owner/operator of an apartment complex a “pipeline operator” where, as here, the owner/operator purchases gas from a Commission-regulated public utility and resells that gas to its tenants. It would be illogical to hold that the owner/operator of an apartment complex constitutes a “pipeline operator” where it buys gas from an entity that is explicitly excluded from the definition of “pipeline operator” and promptly resells that gas to another entity that is explicitly excluded from the definition of a “pipeline operator.”

“The object of all interpretation and construction of statutes is to ascertain and effectuate the intention of the General Assembly.” 1 Pa. C.S. § 1921(a). One presumption that may be applied when interpreting a statute is that the General Assembly does not intend a result that is absurd, impossible of execution or unreasonable. Westover respectfully submits that it would be

absurd and unreasonable to read Act 127 as making the owner/operator of an apartment complex a “pipeline operator” that needs to comply with the full panoply of requirements included in the Federal pipeline safety laws (*e.g.*, ensuring that the gas in its distribution lines contains the proper concentration of odorant, 49 CFR § 192.625(f)(1)-(2), and maintaining records demonstrating that Westover took efforts to ensure that the gas in its distribution lines contains the proper concentration of odorant, 49 CFR § 192.603(b)). The owner/operator of an apartment complex is a landlord in the business of renting real estate; it should not be governed by the same standards that apply to entities that are in the business of transporting natural gas.

Additional matters that may be considered in ascertaining legislative intent include the occasion and necessity for the statute, the circumstances under which the statute was enacted, the mischief to be remedied, the object to be attained, the contemporaneous legislative history, and legislative and administrative interpretations of the statute. 1 Pa. C.S. § 1921(c).

Attached as **Exhibit 2** is the Senate Journal from December 13, 2011. On pages 1340-1341, Senators Baker and Dinniman discuss the purpose of H.B. 344, which became Act 127. They explain that the bill was a reaction to the construction of numerous pipelines in Pennsylvania due to the Marcellus Shale boom. The bill was intended to address gaps in the regulation of gas lines carrying Marcellus Shale gas from the well to markets all over the Commonwealth. In other words, the occasion and necessity for the statute, the mischief to be remedied, and the object to be attained was to address concerns resulting from the construction of pipelines to carry gas from the Marcellus Shale to market. The bill had nothing to do with a landlord’s transportation of natural gas from a Commission-regulated public utility to the residents of an apartment complex.

Senator Baker refers to a series of articles in the Philadelphia *Inquirer* that shed light on the problems that would be addressed by H.B. 344. That series of articles is attached as **Exhibit**

3. Again, these published documents demonstrate that the occasion and necessity for the statute, the mischief to be remedied, and the object to be attained was to address issues resulting from the construction of pipelines to carry Marcellus Shale gas from wells to market. The bill had nothing to do with a landlord's transportation of natural gas from a Commission-regulated public utility to the residents of an apartment complex.

The Commission issued two orders implementing Act 127. *Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators*, Docket No. M-2012-2282031 (Final Implementation Order entered February 17, 2012) and *Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators – Jurisdiction over Class 1 Transmission*, Docket No. M-2012-2282031 (Final Order entered June 7, 2012). These orders demonstrate that Act 127 was intended to address the issues resulting from the Marcellus Shale boom (e.g., by giving the Commission authority to regulate Marcellus Shale transmission pipelines and pipeline facilities in Class 1 locations). There is nothing in these orders to suggest that the Commission read Act 127 as applying the Federal pipeline safety laws to the owners/operators of apartment complexes that take gas from a Commission-regulated NGDC and resell it to the ultimate end-users of the gas.

For all of the above reasons, the Commission should find that Act 127 does not apply to the owner/operator of an apartment complex that takes gas from a Commission-regulated public utility (which is not a “pipeline operator” subject to Act 127) and transports it to tenants (who are not “pipeline operators” subject to Act 127).

V. THE COMMISSION SHOULD IMMEDIATELY STAY THIS PROCEEDING PENDING DISPOSITION OF THE PETITION

52 Pa. Code § 5.303(a)(1) allows the Commission to grant a stay of the proceedings if necessary to protect the substantial rights of the parties. Westover requests that the Commission

grant a stay immediately so that the Commission can decide the threshold jurisdictional issue before the parties must spend resources to litigate the remaining issues in the case.

The criteria applicable to a request for stay are set forth in *Pa. Pub. Util. Comm'n v. Process Gas Consumers Group*, 467 A.2d 805 (Pa. 1983) (“*Process Gas*”). Those criteria are:

- a. The petitioner makes a strong showing that it is likely to prevail on the merits.
- b. The petitioner has shown that without the requested relief, the petitioner will suffer irreparable injury.
- c. The issuance of a stay will not substantially harm other interested parties in the proceeding.
- d. The issuance of a stay will not adversely affect the public interest.

Westover has satisfied all four of these criteria. Consequently, a stay should be granted.

Westover has made a strong showing that it is likely to prevail on the merits. For example, Westover has made a strong showing that its gas systems are not “master meter systems” because Westover provides service entirely within, and limited to, its apartment complexes.

Without the requested stay, Westover will suffer irreparable injury because its substantial rights will be adversely impacted. The ALJ has construed the Commission’s order consolidating Westover’s Amended Petition with I&E’s Complaint as requiring that the parties litigate the threshold jurisdictional question at the same time that they litigate all other issues in the case. Interim Order p. 21. Consequently, Westover must answer extensive discovery pertaining to whether it complied with Federal pipeline safety laws. **Exhibit 4.**⁸ Answers are due by November 14, 2022. By granting an immediate stay, the Commission would effectively bifurcate this proceeding, allowing the Commission to decide the threshold jurisdictional question before the parties are required to litigate any other issues in the case.

⁸ These discovery questions request information pertaining to, *inter alia*: pressure test records for each valve, the manufacturer’s specifications for each excess flow valve, the manufacturer’s specifications for the scheduled maintenance of each manual service shut-off valve, and operator qualification records.

The issuance of the stay will not substantially harm I&E (the only other party to this proceeding). This proceeding has already been pending for nearly a year. No written testimony is due until February 22, 2023, when both parties must submit their Direct Testimony. If necessary, the parties could ask the ALJ to modify the procedural schedule to extend the deadline for filing written testimony.

The issuance of a stay will not harm the public interest. Staying the proceeding will preserve the case in its present procedural posture until the Commission issues a decision on the Petition. Public safety will not be compromised by granting a stay because, as demonstrated above, Westover has made a strong showing that it is not subject to Commission jurisdiction at all and, as a matter of risk mitigation, Westover already takes steps to ensure that its pipeline facilities are safe. Moreover, if the case is not stayed, Westover will incur significant litigation expenses, which it will have to pass on to tenants in the form of higher rents. This result is not in the public interest because higher rents will add to the financial pressures tenants face in the current inflationary environment. Finally, Act 127 has not been enforced against apartment complex owners, such as Westover, since its enactment nearly a decade ago. I&E has pursued enforcement only recently and without any meaningful prior education of apartment complex owners.

Even if the Commission concludes that Westover does not meet the *Process Gas* standards, the Commission can grant a stay in appropriate circumstances. *See, e.g., Pa. Pub. Util. Comm'n v. Pennsylvania Electric Company*, Docket Nos. M-2008-2036188 *et al.* (Opinion and Order entered March 25, 2010). The Commission should exercise its discretion to order a stay in this proceeding to effect a bifurcated procedure, which would better control this litigation and mitigate litigation expenses for the parties and the Commission.

VI. CONCLUSION

WHEREFORE, for all of the foregoing reasons, Westover respectfully requests that the Commission:

- (1) grant interlocutory review;
- (2) immediately stay these proceedings pending disposition of this Petition;
- (3) answer the following Material Questions in the negative:

1. Do Westover’s apartment complexes meet the definition of a “master meter system” in 49 CFR § 191.3 where: Westover takes delivery of the natural gas from a state-regulated natural gas distribution company (“NGDC”) on the grounds of the apartment complex in Pennsylvania, consumes some of the gas, and resells the remainder exclusively to tenants in the apartment complex in Pennsylvania?

2. Does the Gas and Hazardous Liquids Pipelines Act (“Act 127”) apply to Westover’s apartment complexes, considering the facts in question #1?

- (4) remand these proceedings to the Administrative Law Judge for further proceedings.

Respectfully submitted,



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Counsel for Westover Property Management
Company L.P d/b/a Westover Companies

Date: November 7, 2022

Exhibit 1

Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions



1. WHAT IS ACT 127 – THE PIPELINE ACT?

Signed into law Dec. 22, 2011, the Gas and Hazardous Liquids Pipelines Act expanded the Pennsylvania Public Utility Commission's (PUC) authority to enforce the federal pipeline safety laws as they relate to non-public utility gas and hazardous liquids pipeline equipment and facilities within the state.

2. WHEN DID THE PIPELINE ACT TAKE EFFECT?

Feb. 20, 2012

3. WHY WAS THE PUC CHARGED WITH ENFORCING THE PIPELINE ACT?

The PUC is an agent for the federal Department of Transportation's Office of Pipeline and Hazardous Materials Safety Administration, charged with enforcing the federal pipeline safety regulations in Pennsylvania. The Governor and the Legislature decided that as such, the PUC should take on this additional responsibility and expanded the PUC's oversight.

4. WHAT WILL PUC ENFORCEMENT INCLUDE?

The PUC already monitors compliance with federal and state regulations by conducting frequent inspections of pipeline facilities and records of regulated gas utilities. More than 45 different types of inspections are included in the PUC's monitoring of natural gas companies and their pipeline safety. The inspections of these newly regulated facilities will be similar.

Under the Pipeline Act, the PUC has developed a registry and conducts safety inspections of the lines for all pipeline operators in the state. The Commission identifies and tracks the development of pipelines in less populated areas that transport gas from unconventional gas wells.

5. TO WHOM DO THE PROVISIONS IN ACT 127 APPLY?

Any entity who owns or operates equipment or facilities within the Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under federal pipeline safety laws.

6. WHAT IS CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Pipeline operators include: Companies engaged in the gathering, transportation or distribution of natural gas or hazardous liquids.

These include gathering companies; midstream companies; pipeline companies; gas distribution systems that are not public utilities (cooperatives, municipalities, and municipal authorities); master meter systems that provide service to property owned by third parties; and propane distribution systems subject to the federal pipeline safety laws.

7. WHAT IS NOT CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Those who are not pipeline operators include: Public utilities and city natural gas distribution operations, ultimate consumers who own service lines on their real property (including master meter systems serving their own property), and pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC).

A petroleum gas distributor who is not subject to the federal pipeline safety laws also is not considered a pipeline operator under the Pipeline Safety Act. Petroleum gas pipelines subject to the federal pipeline safety laws are pipeline operators subject to Act 127 and must register with the Commission. However, such entities can use proof of registration with Pennsylvania Department of Labor and Industry (L&I) to do so.

8. WHAT IF MY ENTITY HAS PORTIONS THAT ARE COVERED UNDER ACT 127 AND PORTIONS THAT ARE NOT?

If a person operates multiple facilities, some of which are subject to Act 127 and some of which are not, the person is a pipeline operator only with regard to the facilities subject to Act 127. For example, a person who operates a FERC jurisdictional transmission pipeline facility in addition to non-FERC jurisdictional gathering lines is a pipeline operator only with regard to the non-FERC jurisdictional gathering lines.

9. WHAT INFORMATION IS INCLUDED IN THE REGISTRY?

The registration, which is required to be filed and renewed annually, includes the location of the pipeline by class and approximate aggregate miles of pipeline serving unconventional wells.

Registrants must provide contact information, U.S. Department of Transportation (U.S. DOT) Operator ID number and federal employee identification number.

Registrants also must provide the country of manufacture for all tubular steel product installed in Pennsylvania for the exploration, gathering or transportation of natural gas or hazardous liquids during the prior calendar year.

10. WHAT IF MY ENTITY HAS MORE THAN ONE U.S. DOT OPERATOR ID NUMBER?

An entity with multiple U.S. DOT Operator ID numbers must register each U.S. DOT Operator ID number as a separate pipeline operator.

11. WHAT IS THE REGISTRATION FEE?

The registration fee is \$250 to be paid annually to the PUC. This does not include additional money assessed by the Commission to perform its duties under Act 127.

12. WHAT IS THE DEADLINE FOR REGISTRATION?

The annual registration must be submitted to the Commission by March 31 of each year.

13. MY ENTITY RECEIVED INFORMATION FROM THE COMMISSION ABOUT REGISTRATION, BUT WE DO NOT BELIEVE WE FIT THE DEFINITION. WHAT SHOULD WE DO?

Entities who are not pipeline operators pursuant to the Pipeline Act need not register, but should email Commission staff at ra-Act127@pa.gov with a justification in order to be removed from the Commission's mailing list. An entity's determination that they are not required to register under the Pipeline Act is subject to review by the Commission.

14. WHAT IF A PIPELINE OPERATOR DOESN'T REGISTER?

Pipeline operators who fail to register will be subject to civil penalties of up to \$10,000 a day that the violation persists.

15. HOW IS TUBULAR STEEL PRODUCT DEFINED?

Tubular steel product means pipe, not valves or other facilities or equipment.

16. WHAT IF THE COUNTRY OF MANUFACTURE FOR THE TUBULAR STEEL PRODUCT IS UNKNOWN?

If the country of manufacture is unknown, registrants should then indicate the length of the product installed.

17. WHY IS THE PUC CHARGING AN ASSESSMENT?

The Pipeline Safety Act authorized the PUC to assess Pennsylvania pipeline operators for the Commission's cost of carrying out the responsibilities to enforce federal pipeline safety laws as they relate to non-public utility gas and hazardous liquid pipeline equipment and facilities within the state.

18. WHAT COSTS MAY BE ASSESSED?

The PUC may assess the total approved annual budget for the gas and hazardous liquids pipeline safety program net of any Federal offset or shortfall. At the end of the fiscal year when actual costs for the entire program are determined any excess funding will be deducted from the following year's net budget amount.

19. HOW IS THE ASSESSMENT DISTRIBUTED AMONG THE PIPELINE OPERATORS?

As defined in the Act the total intrastate assessable miles are divided by the net budget amount applicable for the fiscal year. This amount is then multiplied by each pipeline operator's reported intrastate assessable mileage.

20. ARE ANY ENTITIES EXEMPT FROM PAYING THE ASSESSMENT?

Under the Pipeline Safety Act, pipeline operators who are boroughs are exempt from paying the assessment.

21. WHAT IS THE SCHEDULE FOR THE ANNUAL ASSESSMENTS AND PAYMENT DATES?

Invoices for assessment are created after the PUC budget is approved and final calculation are completed. However, it is dependent upon when the legislature and Governor approve the budgets. The expected date for invoices would be in early July each year with the payment due 30 days after receipt of the invoice.

FOR FURTHER INFORMATION, CONTACT THE PUBLIC UTILITY COMMISSION:

WRITE

PA Public Utility Commission
Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265

CALL

(717)787-5000

EMAIL

ra-Act127@pa.gov

VISIT OUR WEBSITE

www.puc.state.pa.us



Exhibit 2

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, DECEMBER 13, 2011

SESSION OF 2011 195TH OF THE GENERAL ASSEMBLY

No. 73

SENATE

TUESDAY, December 13, 2011

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDENT pro tempore (Senator Joseph B. Scarnati III) in the Chair.

PRAYER

The Chaplain, Reverend JOHN BORROUGHS, Pastor of Calvary Baptist Church, Avondale, offered the following prayer:

Let us pray.

Heavenly Father, we stand before a people who have a heavy burden, that burden of leading the people of the State of Pennsylvania and, Lord, nationally as well. You instruct us in Your word to pray for them and to lift them up before the throne of God, and we do that, Lord, at this time. As I say, it is an awesome responsibility. They need wisdom, wisdom from on high, and I pray, O God, that truly You would do that.

Lord, we are seeing a time where people are turning their backs on Thee. You are being thrown out of school, thrown out of church, and thrown out of government. I pray, God, that truly, Your mercy and Your grace would be with these dear folks here today, and that, indeed, they would begin each day as they get up to look to You for wisdom to make decisions that day.

So, Father, to that end, we pray for these Senate folks here, Lord, and pray that, indeed, You would guide them and direct them, even in the course of the actions today that will be taken. But, Father, help them, again, just to draw close to You, because man's wisdom fails us, but Thy wisdom is always right.

So, Father, we do pray for our Senate people here today and for all those involved. We thank You for the privilege of coming, and, Lord, we just ask that truly, again, You would bless and guide them. In Jesus' precious name, amen.

The PRESIDENT pro tempore. The Chair thanks Reverend Borroughs, who is the guest today of Senator Pileggi.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

The PRESIDENT (Lieutenant Governor Jim Cawley) in the Chair.

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE BOARD OF TRUSTEES
OF POLK CENTER**

December 13, 2011

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Sarah R. Gibson, 14910 Route 322, Clarion 16214, Clarion County, Twenty-first Senatorial District, for appointment as a member of the Board of Trustees of Polk Center, to serve until the third Tuesday of January 2017, and until her successor is appointed and qualified, vice Josephine Zuck, Oil City, deceased.

TOM CORBETT
Governor

**MEMBER OF THE BOARD OF TRUSTEES
OF WARREN STATE HOSPITAL**

December 13, 2011

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Andrea M. Grolemond, 6748 Highland Road, Kane 16735, McKean County, Twenty-fifth Senatorial District, for reappointment as a member of the Board of Trustees of Warren State Hospital, to serve until the third Tuesday of January 2013, and until her successor is appointed and qualified.

TOM CORBETT
Governor

**RECALL COMMUNICATIONS
REFERRED TO COMMITTEE**

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER

HB 170 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 210 (Pr. No. 2503) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1990 (P.L.1234, No.204), known as the Family Caregiver Support Act, further providing for intent, for definitions, for caregiver support program, for reimbursements and for entitlement not created.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Alloway	Erickson	Orie	Vance
Argall	Farnese	Piccola	Vogel
Baker	Ferlo	Pileggi	Ward
Blake	Folmer	Pippy	Washington
Boscola	Fontana	Rafferty	Waugh
Brewster	Gordner	Robbins	White Donald
Browne	Greenleaf	Scarnati	White Mary Jo
Brubaker	Hughes	Schwank	Williams
Corman	Kasunic	Smucker	Wozniak
Costa	Kitchen	Solobay	Yaw
Dinniman	Leach	Stack	Yudichak
Earll	McIlhinney	Tartaglione	
Eichelberger	Mensch	Tomlinson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

HB 344 (Pr. No. 2816) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for gas and hazardous liquids pipelines and for powers and duties of the Pennsylvania Public Utility Commission; and imposing civil penalties.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, until a few years ago, not many people were giving thought to pipeline rights-of-way, the thickness of pipes, the quality of the welds, or the sufficiency of inspections before the pipes were buried, nor was there a whole lot of attention paid to the occasional siting of a gas compressor station. Today, those considerations are of utmost importance to many residents in the Marcellus Shale drilling areas. As residents have inquired about the rules and regulations and oversight of this infrastructure, they are dismayed to discover there are alarming holes in the system.

Today is day three of a comprehensive look by The Philadelphia Inquirer into the concerns and consequences. It is hard to imagine a clearer or more timely call to action. Look at the pipeline map for Bradford County. It begins to resemble the street map of a metropolitan area. For safety reasons, and for reasons of environmental protection, we need to know where the pipelines are, we need to know how they are constructed, to standards that are suitable for the volume and pressure of the gas they are conveying, and we need to know they are located sufficiently far away from people and resources that we want to protect.

Through this bill, we begin to fill the gaps in State law and regulation. The Public Utility Commission has given safety jurisdiction over Classes 2, 3, and 4 gas and hazardous liquid pipelines. As more permits are approved and more exploratory drilling takes place and more wells come into active production, it is imperative for us to insure greater public safety and environmental protection.

This is not the final word on this issue. Gathering pipelines referred to as Class 1 are prevalent in my area and other parts of the Commonwealth. The Federal government chooses not to inspect these lines because they are located in rural, less populated areas. Thus, I believe it has become a State responsibility, a priority one at that. This bill provides for Class 1 registry, so at least we will know where the lines are.

Subsequent legislation that I am introducing will give the PUC the same authority to conduct safety inspections on Class 1 lines as it gains to inspect in the other classes under the bill before us. It will bring such lines under the Pennsylvania One Call System. When we give this authority, we must also provide the means to enforce it. None of this is a threat to the viability of the industry. We must be leaving any aspects of drilling, compressing, and shipping beyond the reaches of standards and overseers that would pose a substantial threat to our residents and communities. I urge an affirmative vote on the bill.

Thank you, Mr. President.

The PRESIDING OFFICER (Senator John C. Rafferty, Jr.) in the Chair.

LEGISLATIVE LEAVE CANCELLED

The PRESIDING OFFICER. Senator Solobay has returned, and his temporary Capitol leave is cancelled.

And the question recurring, Shall the bill pass finally?

The PRESIDING OFFICER. The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Mr. President, I rise to support Senator Baker's bill. I think she said a key word when she said that we have not completed the task and she talked about subsequent legislation.

You see, the pipeline issue is not just in the Marcellus Shale area, the pipeline issue is across this Commonwealth, especially in southeastern Pennsylvania. You know, there is no profit from the Marcellus Shale unless it gets to market, unless it gets to the ports of Philadelphia and Wilmington, and other places. So, every single citizen in this Commonwealth is going to be impacted by Marcellus Shale gas, as it goes from the well to the port and then to the refinery. We must assure every single citizen in this Commonwealth that they are going to be safe.

We must protect the environment, and we must make sure that, at least in the southeast and other areas, where we have invested millions of dollars on easements, on the protection of our rivers and streams, on the preservation of open space, that that is not hurt, that that work, over many decades, is not thrown asunder by these pipelines.

I look forward to working with Senator Baker on that subsequent legislation. This is a first step, a good step, but we still have much to do to make sure that all Pennsylvanians are safe, to make sure that we protect the water and the environment of this Commonwealth, not just at the well sites, but in every place in this Commonwealth that a gas line goes through.

Thank you, Mr. President.

And the question recurring, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Alloway	Erickson	Orie	Vance
Argall	Farnese	Piccola	Vogel
Baker	Ferlo	Pileggi	Ward
Blake	Folmer	Pippy	Washington
Boscola	Fontana	Rafferty	Waugh
Brewster	Gordner	Robbins	White Donald
Browne	Greenleaf	Scarnati	White Mary Jo
Brubaker	Hughes	Schwank	Williams
Corman	Kasunic	Smucker	Wozniak
Costa	Kitchen	Solobay	Yaw
Dinniman	Leach	Stack	Yudichak
Earll	McIlhinney	Tartaglione	
Eichelberger	Mensch	Tomlinson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

BILL OVER IN ORDER

SB 371 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 730 (Pr. No. 1848) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, in corporate powers, further providing for real property and for personal property; and, in contracts, further providing for letting contracts.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Alloway	Erickson	Orie	Vance
Argall	Farnese	Piccola	Vogel
Baker	Ferlo	Pileggi	Ward
Blake	Folmer	Pippy	Washington
Boscola	Fontana	Rafferty	Waugh
Brewster	Gordner	Robbins	White Donald
Browne	Greenleaf	Scarnati	White Mary Jo
Brubaker	Hughes	Schwank	Williams
Corman	Kasunic	Smucker	Wozniak
Costa	Kitchen	Solobay	Yaw
Dinniman	Leach	Stack	Yudichak
Earll	McIlhinney	Tartaglione	
Eichelberger	Mensch	Tomlinson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

HB 1458 (Pr. No. 2877) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in general provisions, further providing for definitions; in registration of vehicles, further providing for display of registration plate; in drivers' licenses, further providing for judicial review and for cancellation; in commercial drivers, further providing for definitions and for requirement, providing for certification requirements, for medi-

Exhibit 3



Powerful Pipes, Weak Oversight - Pa.'s shale boom has spurred miles of pipeline construction, often with no safety rules.

December 11, 2011 | Philadelphia Inquirer, The (PA)

Author: Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS | Section: LOCAL | 4817 Words

Page: A01

[OpenURL Link](#)

Through the hilly fields here in southwestern Pennsylvania, crews worked for months this year, cutting a trench through woods and past farms for a new natural gas pipeline.

Like many other lines crisscrossing the state's Marcellus Shale regions, this pipe was big - a high-pressure steel line, 20 inches in diameter, large enough to help move a buried ocean of natural gas out of this corner of the state. It was also plenty big enough to set off a sizable explosion if something went wrong.

There was trouble on the job. Far too many of the welds that tied the pipe sections together were failing inspection and had to be done over.

A veteran welder, now an organizer for a national pipeline union, happened upon the line and tried to blow the whistle on what he considered substandard work.

But there was no one to call.

Pennsylvania's regulators don't handle those pipelines, and acknowledge they don't even know where they are. And when he reported what he saw to a federal oversight agency, an inspector told him there was nothing he could do, either.

Because the line was in a rural area, no safety rules applied.

"It's crazy," said Terry Langley, the union official, worried that any problems would literally be buried. "It seems to me that everyone is turning a blind eye."

In Pennsylvania's shale fields, where the giant Marcellus strike has unleashed a furious

surge of development, many natural gas pipelines today get less safety regulation than in any other state in America, an Inquirer review shows.

Hundreds of miles of high-pressure pipelines already have been installed in the shale fields with no government safety checks - no construction standards, no inspections, and no monitoring.

"No one - and absolutely no one - is looking," said Deborah Goldberg, a lawyer with Earthjustice, a nonprofit law firm focusing on the environment.

Belatedly, the state's elected officials and regulators are trying to catch up. The legislature is poised to give the state Public Utility Commission authority to enforce federal safety rules in the shale regions, as in other gas-producing states.

Still, because of a long-standing gap in the federal rules - the same issue that affected the line near Waynesburg - the new law would leave many gas pipelines unregulated over vast swaths of rural Pennsylvania, especially in the very shale regions that are ground zero for pipeline construction.

These new Marcellus Shale "gathering" pipelines that connect to the wells are going unregulated, even though they are large-diameter, high-pressure pipes - as powerful and potentially dangerous as the transmission lines that cut across the continent.

Although accidents in natural gas pipelines are rare, they can be devastating. Last year, 21 people died and 105 were hurt in 230 gas-line accidents in the United States, according to federal data, the highest death total in a decade.

This year, 16 people have died in gas explosions, including five people in Allentown and one in Philadelphia. The accidents in this region were all due to failures in old cast-iron pipelines, not the type of lines being installed in the shale regions.

Drilling and pipeline companies say the new generation of steel lines has never been safer. They say they have a huge financial stake in making sure the lines don't leak, and are building the pipes to meet federal standards - whether or not the rules require it.

"We're all about making sure we have safe and reliable operations in the commonwealth," said David J. Spigelmyer, vice president of Chesapeake Energy and the new chairman of the Marcellus Shale Coalition trade group.

And the industry notes that there are relatively few reports of accidents in gathering lines, and none so far in Pennsylvania.

As for the line near Waynesburg, its owner, Consol Midstream, said it also identified flawed welds, caught by independent inspectors hired by the firm. Consol fired welders and made repairs.

By using a stronger grade of steel and examining all welds, Consol ensured that the pipeline exceeded federal requirements, according to the company, a major coal and gas producer based outside Pittsburgh.

"While we are not required to do this, we felt it was very important to employ additional oversight and inspection services than is customary to protect our and the public's best interest," Joe Fink, Consol's manager, said in an e-mail.

An increasing number of Pennsylvanians in rural areas say corporate vigilance is not enough - they want government to step up oversight.

"We're taking all the risks up here. We should be afforded the same protections," said Emily Krafjack, a resident of Wyoming County and self-taught expert on pipelines who now works as a county consultant.

"We are not a risk assessment," she said. "We are real people. We pay taxes. We have kids. We are regular people like everybody else."

Second wave

Pipelines are the second wave of the Marcellus revolution that has revived Pennsylvania as a major oil- and gas-producing state.

Pennsylvania was home to the nation's first oil well, in Titusville, and the first petroleum pipeline, a 109-mile line that ended in Williamsport. The energy-drilling industry faded - until companies discovered huge gas reserves in the Marcellus Shale. This vast reservoir is now being unlocked with hydraulic fracturing, or "fracking," a technique that uses a mixture of high-pressure water, chemicals, and sand to blast gas loose from the rock.

Today, more drilling rigs are operating in Pennsylvania than on land in Louisiana, stoking the state economy with billions of dollars in royalty payments, paychecks, and infrastructure projects. Shale gas now accounts for 34 percent of U.S. production, and the Marcellus play is a major reason why.

Without pipelines, all that gas will stay in the ground. One study says Pennsylvania can expect anywhere from 10,000 to 25,000 miles of new natural gas pipelines - enough, in the higher estimate, to circle the globe at the equator.

Like fracking, the quickening pace of pipeline construction has heightened safety worries, aroused environmentalists, and divided communities.

Pipeline digs already have caused problems in Pennsylvania, with erosion clogging some high-quality streams and polluting some wells.

And the build-out will require the clearing of as much as 150,000 acres of forest, and bring dozens or even hundreds of new compressor stations, which will add to noise and air pollution.

"The scale of it, I don't think a lot of people really grasp yet," said Nels Johnson, deputy state director of the Nature Conservancy and the study's author.

While environmental inspectors keep a watch for pipeline damage to streams and landscapes, the wave of construction caught Pennsylvania's safety regulators unprepared.

Much of the gas in the state still arrives from western fields via interstate transmission

lines, which are regulated by the federal Pipeline and Hazardous Materials Safety Administration, or PHMSA.

In urban areas, the PUC regulates gas lines for utilities such as Peco Energy and PGW.

But thus far, no one in the PUC or PHMSA has kept track of what gathering pipelines have been built in the shale fields, or where they are going.

"We have no idea," said Paul Metro, the PUC's top pipeline-safety regulator.

Under federal regulations, a rural area is defined as one with 10 or fewer homes along each mile of pipe, within a quarter-mile-wide right-of-way.

The new shale-well lines are not even included in the One Call system, the "Call 811" program that aims to prevent digging accidents with buried pipelines.

"I just can't believe that," said Jim Weaver, Tioga County planner. "That to me is one of the most ludicrous situations I have ever heard of." So far, he said, companies have built or planned 1,000 miles of pipeline in his north-central Pennsylvania county.

Rules gap

The loophole for rural America is part of a much larger vacuum in government oversight for pipelines, here and in Washington:

PHMSA, the main U.S. regulator, has been criticized for decades as ineffectual and overwhelmed.

The safety of the entire system largely hinges on industry self-policing. But when inspectors have visited job sites, they have turned up some shoddy welds, substandard steel, and other potentially dangerous construction errors - particularly about five years ago, when the industry was going through another boom period.

"Houston, we have a problem," one top inspector warned at a conference with the

industry.

Throughout the country, pipeline firms have won the right to build lines with few if any restrictions from local governments. In Pennsylvania, the gas industry's clout is such that legislators are preparing to bar local officials from imposing tough restrictions on wells and pipelines in their communities.

U.S. Transportation Secretary Ray LaHood, whose agency oversees pipelines via PHMSA, has acknowledged that pipeline-safety oversight is a thin "patchwork" that needs to be made far tougher.

"We need to step up our enforcement," LaHood said in an interview. "We're going to do everything we can to make sure safety is the number-one priority when it comes to pipelines."

On Thursday, congressional leaders reached a compromise on a new pipeline-safety bill that authorizes adding 10 inspectors nationwide, requires new tests on some older pipelines, and doubles maximum fines for violations to \$2 million.

One key player in those negotiations was Rep. Bill Shuster (R., Pa.), a strong supporter of the Marcellus industry and chairman of a House subcommittee with oversight over pipelines. In the discussions, critics said, he managed to significantly weaken the bill.

Shuster says Congress needs to plug regulatory holes, but cautions that excess regulation would get in the way of industry investment. He says pipelines are safe, but can never be perfect.

"The reality is, if you're going to ship things through pipelines, there's going to be accidents," said Shuster, while the negotiations were under way. "And if you drive a car, you're going to have some accidents. If you don't want that, don't drive."

A deadly year

The massive pipeline construction in Pennsylvania is taking place during a debate in

Washington and Harrisburg on how to improve safety - questions that took on more urgency after deadly line failures in the last year.

Overall, PHMSA argues that the safety record of gas pipelines is improving. Pipeline accidents in which someone died or was badly hurt have dropped over the last 20 years, Cynthia L. Quarterman, PHMSA administrator, said in congressional testimony in June.

But other statistics point to a dramatic increase in safety failures in big gas transmission lines. "Significant" incidents - those involving injuries, big leaks, or major repairs - have shot up by 55 percent since 2003.

In fact, an Inquirer analysis found that most of the safety improvements can be traced to a decrease in excavation accidents brought on by the spread of One Call programs.

Quarterman called the increase in transmission failures "troubling," even as she acknowledged that PHMSA doesn't know the reasons behind it. "We want to stop that trend and reverse it," she said.

Last year was the worst for pipeline deaths in a decade.

One early evening in September 2010, a steel gas transmission line, later found to be riddled with faulty welds, erupted in a neighborhood in San Bruno, outside San Francisco. The blast killed eight people, destroyed 38 homes, and left a crater 72 feet long. Dozens were injured, some suffering third-degree burns.

The explosions and the deaths have continued this year, in Pennsylvania.

In February, an 83-year-old cast-iron gas line blew up in downtown Allentown, killing five, including a 4-month-old baby. And in January, another old cast-iron main exploded in Northeast Philadelphia, sending a 50-foot fireball into the sky and fatally injuring a young gas company worker.

Cast-iron pipelines, which turn brittle with age, have long been identified as a safety hazard, but utilities have been slow to replace them. Pennsylvania still has thousands of

miles of these lines. Philadelphia Gas Works, with more than 1,500 miles, has the highest percentage of cast iron in the nation.

Attention to detail

On a day of intermittent, spitting rain this spring, a pipeline welding crew was working under a blue tarp on the edge of a hillside in Bradford County in northeastern Pennsylvania - the epicenter of the Marcellus boom.

A deep trench had already been cut into a hillside, and the green sections of steel pipe, coated to resist corrosion, were already laid out on support frames waiting for the welders.

Parked on the highway was a square panel truck, a rolling darkroom. The owner of this line, Chesapeake Energy, was X-raying and visually inspecting each one of the pipeline welds. Another worker was using a sophisticated GPS device to record the precise location of every weld and connection.

Once the lines are done, they are electrically charged to resist rust and subjected to a hydrostatic test, pumped full of water to make sure there are no leaks. Chesapeake also is permanently marking its routes with bright-yellow pipeline signs.

The industry says that pipelines today are made of better steel and built and welded to higher standards than ever before.

"These are not yesterday's gathering systems," said Chesapeake's Spigelmyer.

In the absence of any regulations or inspections, though, it's impossible to know whether every company is following the same standards as Chesapeake. In short, Pennsylvania is depending on the companies to make sure the pipelines are built correctly.

"I've heard some companies only check 10 percent of the welds," said Jay Senozetnik of Buffalo, working as an X-ray inspector on the Chesapeake job. "The problem is, people

living next to it don't know which lines are inspected 10 percent and which are 100 percent."

"The biggest concern is that one company may be a good actor, but another company may not be," said Lynda Farrell, a pipeline-safety activist in Chester County.

Many of the people living closest to the new pipelines say they are unconcerned - particularly if they have a lease and need the pipeline to start collecting their royalty payments. They say they trust the companies to build them safely.

Joan and Bill Carlson, of Chester Springs, have a gas well on their land in Springville, in Susquehanna County. They made lease deals for three more pipelines to cross their property.

"Could it happen? Sure," Joan Carlson said when asked if she was worried about an accident. "Anything could happen. But will it? Likely not. They've been doing this for a hundred years."

Given the expense of pipelines, gas-industry executives say the last thing they want is to spend millions more to dig up a faulty line, let alone risk an accident.

"There's no shortcuts being taken just because there isn't some type of public regulation," said Ted Topakas, marketing director of Henkels & McCoy, a pipeline contractor in Blue Bell.

"You want to make sure that what you're putting in the ground is of high quality and the safest construction," he said. "You want to protect the people, you want to protect the environment, you want to protect your investment."

'Extremely troubling'

When problems are caught, it's almost always by the companies themselves, or by their own inspectors.

The problem is, the companies sometimes make mistakes.

In recent years, there has been growing evidence that quality controls can break down - particularly during times of strong demand for new lines, as there is now in Pennsylvania.

"They've got so much construction going on, companies are really getting lean," said pipeline-safety expert Richard Kuprewicz. "And if you're spread so thin, you start to cut corners, and take risks. It's not like they do it intentionally; it's the system [that] takes over."

"The way things are going, 'Trust us' isn't cutting it," Kuprewicz said.

In late 2008, after a surge in projects left the industry stretched to find qualified workers, some serious problems began cropping up in big pipeline projects.

Alarmed, PHMSA engineers started spending more time in the field actually observing work crews. In all, they looked at 35 projects. What they found were "very serious issues covering all aspects of construction," according to Alan K. Mayberry, a top PHMSA official.

"It really paints a portrait of an industry that over the last year or so has really been stretched to capacity," Mayberry said during a conference in Texas to warn the industry to be more careful.

The agency found steel that didn't meet specifications, inadequate coating on pipes, and slipshod welding techniques. The agency found the problems were exacerbated when the lines cut through hills and streams - common terrain in Pennsylvania's shale fields.

Inspections were supposed to catch the bad welds, but those procedures suffered from their own "quality control problems," PHMSA found.

Some of the bad welds weren't caught until the lines failed during hydrostatic tests. Another PHMSA official said that was "extremely troubling."

Bad welds are supposed to be caught right away, not during final testing. Did that mean, Mayberry wondered during the conference, that there were other bad welds lurking?

Construction mistakes have caused other new pipelines to fail.

In January, pipeline company workers found bubbles in a stream in a remote section of southern New York - natural gas from a pinhole leak in a high-pressure transmission line just two years old.

The 182-mile Millennium Pipeline has announced expansion plans to accommodate demand from Marcellus Shale wells in Pennsylvania and New York.

A later investigation found that a section had flunked a visual inspection and was set aside - but was installed anyway, by mistake.

Last week, the pipeline's owner said it thoroughly inspected the pipeline after doing repairs and "verified the integrity" of the line. It is operating again at full pressure, Millennium Pipeline Co. said.

As for the line near Waynesburg, Langley, the union organizer, said he happened upon it at a road crossing while he was prowling the shale fields in Pennsylvania, looking to make sure none of his workers were doing jobs for nonunion contractors.

His union, Local 798, based in Tulsa, Okla., has been aggressively documenting what it considers slipshod, rushed work by nonunion contractors, particularly in Texas and Louisiana.

"It's happening everywhere, and the sad part is there's very, very little regulation," said Danny Hendrix, Local 798's business manager. "You and I are the ones who have to live around that stuff."

He said inferior construction practices mean that pipelines that should last 70 years might last only 10 or 20.

In the case of the Consol job, Michael Yazemboski, an inspector at a Pittsburgh office of PHMSA, got the call. "He didn't look at the pipe," Langley said. "He said, 'I wasn't allowed to do that because it does not fall under any regulations I have.' "

Because the gathering line was in a rural area, it fell outside safety rules, a PHMSA spokesman confirmed. The agency declined permission for an interview with Yazemboski.

Consol took action, firing a half-dozen welders from the job and eventually dismissing the subcontractor, Eagle Pipeline Construction, based outside Dallas. An Eagle spokesman declined to comment.

Accidents in Ohio

El Paso Corp.'s Tennessee pipeline system stretches across half the country, from the Texas Gulf Coast through the Marcellus regions of northern Pennsylvania and into New England.

One morning last month, near the town of Glouster, in a remote section of hills and hamlets in southern Ohio, the line blew up when a weld failed.

It was the third such failure on that pipeline in Ohio this year.

Two miles away, George Pallo, mayor and senior firefighter in the town of Jacksonville, spotted it: a 1,000-foot tower of flame. As he got closer, he said, he had to roll up the fire truck window so he could hear the radio.

"I still hear that roar," he said.

Three houses and two barns caught fire, not from the explosion but from the radiant heat. One woman waited almost too long to get out, fleeing only when her home's vinyl siding started to melt. The backs of her legs got burned as she ran away.

In February, a weld split and touched off another fireball 150 miles away; no one was hurt. Another weld failure created a big gas leak in March, but this time there was no fire.

For pipeline people and regulators, this is worrisome: The welds tying the sections together are supposed to be stronger than the steel itself. Three failures in one year means something has gone very wrong.

"You can bet we are paying a lot of attention to that pipeline," said Quarterman, the top pipeline regulatory official.

El Paso says it's not known yet whether the third failure is, like the first two, related to defective welds; the company says shifting soil may have cracked the pipe.

In a statement, El Paso said it is committed to safety, with an inspection program that "goes well beyond what is required by federal regulations."

This month, another explosion, in rural western Alabama, blew up another gas line that extends into Pennsylvania, without injuring anyone.

Integrity management

The national pipeline system's main line of defense against leaks and explosions of this type is "integrity management," a set of rules requiring companies to inspect older pipelines. Before the program went into effect in 2004, once pipelines were in the ground, companies never had to check them again.

Since then, companies have found, and repaired, more than 3,200 problems in big interstate transmission lines.

But the program can confer a false promise of safety.

The standards cover only 7 percent of lines, in "high-consequence areas" - a euphemism for densely populated neighborhoods, or malls or schools.

And pipeline inspections are usually audits of paper records, but these utility records are sometimes missing or wrong.

In the case of San Bruno, the utility's records didn't show that the pipeline was cobbled together out of short sections of leftover pipe, and had poor-quality steel and dangerous welds, according to a report by the National Transportation Safety Board, which investigates such major accidents.

Two audits by the state and PHMSA didn't find these issues, "despite the fact that many of them should have been easy to detect."

The Safety Board concluded that PHMSA's enforcement program has been "weak" and ineffective in supervising state regulators - the same criticism made by federal auditors 32 years ago.

"For government to do its job - safeguard the public - it cannot trust alone," NTSB Chairman Deborah Hersman said. "And as we saw in San Bruno, when the approach to safety is lax, the consequences can be deadly."

Quarterman said the agency was already attacking some of the issues raised by the NTSB, including better oversight of state safety programs and utilities.

"I think the agency is very strong and very well-respected by the companies we regulate," Quarterman said in a recent interview. "There's always room for improvement."

Declining inspections in Pa.

As companies have ramped up their pace of pipeline construction in Pennsylvania, the number of government safety inspections has actually gone down.

"They are the responsibility of PHMSA, but PHMSA doesn't have the resources," said Metro, Pennsylvania's top pipeline-safety regulator. "They do some inspections, but not

a lot."

Overall, PHMSA says it has devoted a modest amount of time to inspections in the state in recent years - the equivalent, in 2009, of one inspector working half a year. Last year, inspector workdays fell by half.

In addition, the agency said, it spent 216 workdays reviewing records of companies active in Pennsylvania and other states. It couldn't say how much of that time was spent on Pennsylvania pipelines.

"No, I'm not satisfied," said Sen. Bob Casey (D., Pa.), who pushed PHMSA officials for details of their staffing in Pennsylvania last year, even before the explosions in Allentown and Philadelphia.

"I still have real concerns about staff resources and training and overall safety."

Casey said the oversight gaps were even more worrisome given the rapid expansion of the Marcellus Shale pipeline network. "We've got an even bigger challenge than we had two or three years ago," he said.

Elsewhere, state regulators pick up some of the slack, taking responsibility for most inspections via agreements to enforce federal pipeline rules. But Pennsylvania has yet to take on that role.

The reason, Metro believes, goes back to the industry's decades-old muscle in the Statehouse.

"The gas lobby, for 100 years now, has been very, very strong," he said. "It appears they were able to convince the legislature they were able to self-police."

The PUC has eight safety inspectors, working under Metro. But they typically handle only the 46,000 miles of lines owned by utility companies. The lines that ruptured in Allentown and Philadelphia, for example, were under PUC oversight.

Critics worry that Pennsylvania's inattention now could lead to disaster later.

"There's nothing but a bunch of bad things that are going to happen in the next 10 or 15 years," said Don Deaver, a former pipeline engineer from Texas who now works as a consultant.

"You've had so much of it happening so quickly up there that the regulatory oversight just isn't there to keep up."

In legislation pending in Harrisburg, the PUC would get the authority to hire an additional 13 inspectors; the money to pay them would come from fees paid by pipeline operators.

But there is just one training school for pipeline inspectors in the country, in Oklahoma City. Metro says he's hoping to get his people rushed through. But it could be a year before the inspectors could get out in the field.

As for One Call, the program that's supposed to prevent digging accidents, key state legislators and the Marcellus Shale Coalition support the idea of including the shale pipelines, even in rural areas. But the measure is opposed by a second trade group representing smaller drilling companies.

Pennsylvania's oversight gap has left regulators in handcuffs.

Even when the PUC hears about potential safety issues involving shale gas pipelines, Metro said, he has no authority to investigate.

Would-be whistle-blowers have called the agency, but Metro says he sent the calls along to PHMSA and didn't keep records of the complaints.

"Since it's not in our jurisdiction, we don't keep track of that stuff," he said.

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AT PHILLY.COM

To explore the issues in depth, go to Deep Drill at www.philly.com/deepdrill, The Inquirer's new Marcellus Shale section on the Web.

There, you can read the series with photo galleries, videos, and graphics - and an archive of other Inquirer stories on the shale boom.

You can also:

- * Review an interactive map showing the dramatic growth of pipelines in the epicenter of drilling, Bradford County, in northern Pennsylvania.

- * Check out an interactive map of every well permit issued since 2005 and every well drilled this year.

- * Watch a video presentation on how pipelines are built and interviews with a pipeline company executive and a leading activist.

- * View an interactive timeline of important Marcellus events.

- * To learn more, you can also follow links to industry, government, and activist information, including model pipeline ordinances.

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Battle Lines: A Four-Part Series

Sunday

Powerful pipes, weak oversight. Pennsylvania, a center of the shale gas revolution, is now facing a second wave of construction:

the build-out of pipelines to get the gas to market. Yet the pipelines often go unregulated.

Monday

Same pipe, different rules. Gathering lines that link wellheads to interstate lines are being built in large numbers in Pennsylvania to carry shale gas. They are large and move gas at high pressure - but don't receive the same regulation as similar interstate pipelines.

Tuesday

"Us vs. Them" in Pa. Gasland. Community activists have begun to take on pipeline companies, but the industry is fighting back - and winning.

Sunday, Dec. 18

Ageing pipes, deadly hazards. Philadelphia and other cities have an aging network of old cast-iron pipes to get gas to homes. These pipes blew up this year with fatal consequences in Philadelphia and Allentown.

COMING MONDAY

For rural Pennsylvania, no pipeline rules apply. Part II.

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CITATION (AGLC STYLE)

Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS, 'Powerful Pipes, Weak Oversight Pa.'s shale boom has spurred miles of pipeline construction, often with no safety rules.', *Philadelphia Inquirer, The* (online), 11 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13B9B6485CC16788>>



Similar Pipes, Different Rules - U.S. safety rules govern many pipelines, but none cover those going from wells in rural areas.

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When the owners of the Tennessee natural gas pipeline decided to expand the pipe in the Marcellus Shale region of Pennsylvania's northern tier, the federal safety rules they had to follow filled a book.

For this interstate transmission line running north from the Gulf Coast, the regulations covered everything from the strength of the steel to the welding methods to how deep the pipeline must be buried.

Also in Bradford County, another company - Chesapeake Energy - is building a pipeline the same size as the Tennessee line, 24 inches in diameter. And it's designed to operate at even higher pressure - up to 1,440 pounds per square inch.

But for this line, in this rural section of shale country, there are no safety rules at all.

Because the second line is classified as a "gathering" pipeline, carrying gas from well fields to transmission lines, safety rules are less stringent. And because that line is in a rural area, it's totally unregulated.

Bill Wilson lives in neighboring Wyoming County, another crossroads for the new generation of powerful Marcellus gathering lines. He made a study of pipeline rules in his role as president of a group of landowners who negotiated gas and pipeline leases.

He says the calculation that balances safety regulations against population numbers treats rural residents as "collateral damage."

"It's all about money. You know that as well as I do," he said.

This loophole in the law, a legacy of the industry's influence in Washington, has been evident for decades, but the mighty Marcellus gas strike in Pennsylvania has changed the rules.

The new wells, using the technique of hydraulic fracturing, generate tremendous torrents of gas that need big pipes, running at pressures far greater than traditional gathering lines.

That has federal regulators and some members of Congress once again pushing to extend safety rules to the 200,000 miles of gathering lines in rural America - with gas and pipeline companies pitted against them.

"I believe when a pipeline is put in the ground, there has to be some regulation," said Transportation Secretary Ray LaHood, whose agency oversees pipelines through the Pipeline and Hazardous Materials Safety Administration, PHMSA.

"Someone has to have some enforcement over them, some oversight on construction and safety - but also transparency, so people in these communities know when a pipeline is going through their front yard," he said.

This high-stakes battle - now playing out in Harrisburg, as well - has engaged politicians, environmentalists, and legions of lobbyists, arguing over arcane details in law offices, committee rooms, and before the state Public Utility Commission.

As Pennsylvania takes its place among the major gas-producing states, it is perhaps appropriate that a key figure in these regulatory debates is a congressman from Pennsylvania - Bill Shuster.

When Republicans gained control of the House in the 2010 elections, Shuster became chairman of a subcommittee with oversight of pipelines. He's hesitant to add rules that might slow natural gas development - including ones on gathering pipelines.

"If there's a glaring problem out there, we ought to take a look at it, but I haven't heard

there's a problem," he said. "If it's not broke, why fix it?"

Gas and pipeline companies say that the oversight gap has no effect on public safety, and that their new gathering lines in the Marcellus are "state of the art."

Chesapeake Energy says the 24-inch line it is building in Bradford County, like its other pipelines, meets or exceeds all safety regulations.

"I would be surprised to find anybody building gathering lines out there that are not up to the highest integrity standards," said David J. Spigelmyer, vice president of Chesapeake and chairman of the Marcellus Shale Coalition, the leading industry trade group.

Though the industry insists accidents on gathering lines are rare, the stakes are high when the pipes do rupture. In recent years, they have blown up in Texas and Oklahoma, killing workers and burning one woman in her home.

"It doesn't matter what you call this thing," said Richard Kuprewicz, an engineer and consultant for the Pipeline Safety Trust. "You've got high diameter and high pressure - guess what? There needs to be more regulation."

But industry representatives, here and in Washington, are once again pushing back. Bills pending in Harrisburg say the state rules can't be tougher than the federal ones.

"It simply increases the cost of doing business in the area without really accomplishing much," said W. Jonathan Airey, a lawyer for the industry. He and others say the money could be better spent on protecting the public in more populated areas.

He was doubtful the move would gather much steam, especially given the long history of wrangling over the issue. "I don't know how enthusiastic DOT [the Department of Transportation] is to reopen something that took 30 or 35 years" to settle, he said.

Fewer people, less protection

As pipeline rules have become stricter, they have required companies to focus their greatest attention on what regulators officially term "high-consequence areas" - places where the injury or death toll would be massive.

That's of little comfort to Emily Krafjack, who lives in Mehoopany, in rural Wyoming County.

"We're of no consequence, that's what I always say," said Krafjack, who has become one of Pennsylvania's most persistent advocates for stronger pipeline regulations.

Much of the pipeline mileage in her county is designated "Class 1," the least-populated and least-regulated of four areas under PHMSA regulations. That means there are 10 or fewer homes along a one-mile section of pipeline within a quarter-mile right-of-way. No federal or state safety regulations apply to gathering lines in Class 1.

Pipeline companies building gathering lines in Wyoming County say they are following stricter standards anyway, using stronger steel and painstaking inspection procedures.

Krafjack said that's a welcome step - but she says it should not be voluntary. She says the Class 1 loophole must be closed.

"While these run through the fields or the hills, eventually they go by people's homes," she said.

"All of these lines are being installed in a very short window of time. They can use shallower depth, they can use thinner pipe. They can do no inspections."

Though firms pledge to build to the best standards, she says, "We have no way of knowing."

For many other residents, though, these gathering lines represent more promise than peril. Many landowners now have wells drilled and "fracked" on their property - but won't start getting royalty checks until the pipes are hooked up and the gas starts flowing.

"We're pretty sure the black river runs right through here," said Phil Beardslee, 65, a truck driver from Springville, in Susquehanna County, saying the wells in his area had been big producers.

"And I hope so," he said. "We hope. It's my retirement."

He says he is unconcerned about pollution from the well pad near his home or safety problems from the pipelines. As he spoke, a crew from Williams was laying a pipe across the street from his house.

"They come in, do a good job, cover them up, and they're gone," Beardslee said. "By the time they get it all graded off, you don't know it's even here."

Fewer rules part of history

Lower safety standards for rural areas have been enshrined in federal rules since the dawn of federal pipeline regulation.

In 1965, a transmission pipeline fractured outside the small town of Natchitoches, La. The explosion killed 17 and prompted President Lyndon B. Johnson to call for the first time for federal pipeline regulation. The same pattern has been repeated ever since - explosion, deaths, reform.

With a push from Johnson, Congress enacted its first oversight laws in 1968.

But from the start, industry lobbyists made sure the rules explicitly exempted a huge segment of the pipeline infrastructure - the ones running from wells in more remote areas.

Soon, it became apparent that the exemption had created a massive regulatory gap.

"Although several serious accidents have occurred in recent years involving . . . gas gathering lines in rural areas, safety regulations governing these pipelines have not

been issued," federal auditors warned in 1978.

Prodded by Congress, the Transportation Department tried to draft new rules in 1974 and 1986 and again in 1991. Each time, the industry fought back..

Companies questioned whether the lines were really that dangerous, and whether the extra expense of regulations would discourage natural gas exploration.

Each time, the agency ended up retreating.

One of the biggest obstacles has been an inability to solve the most basic question of all: When is a pipeline a gathering line?

For pipeline companies, names mean a lot: They pay user fees to the government, \$70 million this year, based in part on how their pipes are defined. More important, tougher regulations mean more compliance costs.

Generally, gathering lines run from well fields and feed into bigger "transmission lines" that cross the country, and deliver gas to the utilities that pump it into homes and businesses through "distribution lines."

For years, the official definition was circular - a gathering line was one that, in the supply chain, came before a transmission line. A transmission line was one that came after a gathering line.

"We all used to make jokes that we'd all retire before we figure out what that is," said Johnny Dreyer, a spokesman for the Gas Producers Association, the major trade group for gathering pipeline firms.

In 2006, PHMSA essentially gave up: It simply instructed companies to use a guide produced by the American Petroleum Institute.

"It's a joke," said Bill Kiger, of Pennsylvania One Call, the 811 number that construction crews can call before they dig to avoid striking a buried gas line.

"The problem with all that kind of stuff is the definitions are produced by the user group," he said. "If you were a user, would you make the definition tough? It's like setting your own parking fee."

But that didn't settle anything. In August, federal regulators admitted the guide was full of "conflicting and ambiguous language," with 20 bewildering diagrams that can result in the same pipeline system being classified in different ways.

"The regulations, as I look at them, begin starting to look like the tax code," Jeffrey D. Wiese, associate PHMSA administrator for pipeline safety, said at an agency meeting.

Some companies have gamed the system, regulators say, exploiting the confusion so their lines escape regulation - even though they may run as far as 76 miles from the gas well.

In fighting new rules, the industry has leaned on numbers. There are fewer accidents on gathering lines, the argument goes, so new rules would be overkill.

But critics say that's something of a Catch-22. Since the lines aren't regulated, there's no requirement that companies report incidents or accidents. Reliable statistics are hard to come by.

"It's hard to move forward with a rulemaking based on data when there's no data and no requirement for anybody to give us data," one PHMSA official said in an interview, speaking on condition that he not be named.

In fact, the only real attempt to study accidents on gathering lines was done by an industry trade group in 2004. The Gas Processors Association surveyed 40 operators and found 58 incidents during the previous five years, including one death and three injuries. The group said this showed the lines posed less threat than transmission lines.

The study was cited by PHMSA when, in 2006, it decided against tougher rules.

At the request of Congress, the Government Accountability Office is now trying to collect statistics on gathering-line accidents; auditors recently toured Pennsylvania.

In the effort to extend regulation, safety advocates and regulators have had to contend with opposition not only in the industry, but from elsewhere in the government.

In 2004, Energy Department officials cited a policy of President George W. Bush to protect domestic energy production and echoed industry lobbyists in warning that regulation would harm "marginal" operators.

The move to increase safety could force companies to shut down wells or discourage the drilling, wrote James Slutz, who was then deputy assistant secretary for natural gas and petroleum technology.

Lobbyists joined in, saying new regulations would have a "devastating impact" on gas exploration, and "drag producers into a regulatory scheme . . . with little or no benefit."

These worries found a sympathetic audience among regulators.

"We are very concerned that we not bring additional costs," Stacey L. Gerard, the chief safety officer at the time, said during a 2006 meeting with a PHMSA technical advisory panel heavy with industry representatives. "We are very sensitive to the limited margins of profit."

In the end, the agency in 2006 dropped its bid to push regulation into Class 1 rural areas, saying its proposal "does not appear to be a reasonable use of available resources." The agency tightened some rules on gathering lines but relaxed others.

The net result: No change in miles regulated.

Big explosion, no investigation

Near the town of Alex, in the oil-field plains southwest of Oklahoma City, a noise that sounded like a bomb shook people awake in the middle of the night three years ago.

The explosion, from a 20-inch gas gathering line, rattled their walls and sent up a 50-foot ball of flame that turned 3 a.m. as bright as afternoon. Three homes were destroyed, and a woman, Mildred Hull, suffered second- and third-degree burns.

Grady County Fire Chief Perry Wenzel said the blaze was ferocious, so intense that it melted the back of one of his fire trucks.

"It totally destroyed three homes that were there," Wenzel said in a recent interview. "It burned them to the ground."

The line was 32 years old. The company that owned it, Enogex Inc., said at the time an inspection the year before had turned up no problems. No one hit the line during an excavation.

What caused the pipe to blow up remains a mystery. The area, a center of oil and gas production since the 1920s, was rural, meaning pipes there fall outside any regulations. Oklahoma did not investigate.

"Our pipeline safety division didn't have jurisdiction over it," said Matt Skinner, a spokesman for the Oklahoma Corporation Commission.

"In terms of this agency, there were no reports," Skinner said.

Enogex conducted its own review but won't discuss the results.

"They just don't want to reveal that information," said Enogex spokeswoman Sandra Longcrier. She did say that since the accident, the company has begun to use internal devices to inspect larger gathering lines for corrosion: "That was a good lesson learned."

Two years later, another Enogex gathering line exploded in another town in the same county, injuring three workers doing maintenance on the line. One suffered a broken leg, burst eardrums, and second-degree burns over half his body.

Like the first line, this one was unregulated, and state officials did not investigate the accident. Longcrier said the company would not reveal that cause, either.

"More and more, these lines are not in a rural area - they get built up around the line after it's in," she said, stressing that the company's workers have a personal stake in safety: "All our men live and work in those areas where they have lines."

After the Alex accident, the Oklahoma Legislature took up a bill that would have given the state authority to regulate these rural gathering lines. It would have removed a legal ban on the state imposing any pipeline rules more stringent than federal ones.

But it drew fire from pipeline firms and died.

"The industry felt like it was a little too burdensome," said Republican State Sen. Brian Bingman, the sponsor.

With its long history of oil and gas production, Grady County is now a "spiderweb of pipelines," Wenzel, the fire chief, said.

"They should be regulated," he said. "Mainly for the safety of the people. These things are running next to towns and everything. They're everywhere.

"I wish there was a lot more support on this," he said. "But when it comes to the pipeline companies, they take that over."

A changing landscape

In Pennsylvania, like other oil and gas states, shallow gas wells - and pipelines - have been around for decades, dating to the first pioneering wave of oil and gas development that began 150 years ago.

About 350,000 conventional gas wells have been drilled in Western Pennsylvania, and 70,000 are still producing. Those types of wells generally require much smaller pipelines, six or eight inches in diameter. Pressures are lower.

The new natural gas rush has changed everything.

In the Marcellus, drillers pump water at high pressure to blast the gas loose from shale, a process known as hydraulic fracturing, and send as many as 16 wells underground horizontally from the same well pad.

Gas bursts from these wells at pressures as high as or higher than is typical for even the big interstate lines. Within a year or two, the pressure drops significantly.

A considerable amount of Marcellus gas arrives ready-made for the big interstate lines. Some companies operating in Pennsylvania, including Williams, typically use 24-inch for their gathering lines in the state. Some lines are even larger.

As a result, "the framework for regulating gas gathering lines may no longer be appropriate," PHMSA announced this year. In August, the agency once again opened a study on whether to close the rural regulation loophole.

"We're worried, too. We would like to have jurisdiction over those lines," said Cynthia L. Quarterman, PHMSA administrator.

For starters, officials proposed dumping the convoluted American Petroleum Institute guidebook and drafting a new definition.

More sweepingly, the agency asked for comment on whether it should impose "new, risk-based requirements for large-diameter, high-pressure gas gathering lines in rural locations."

"It's a little tough to defend to say that we don't regulate Class 1 locations," PHMSA official DeWitt Burdeaux told an industry conference in March. "That those folks that are in a little more rural areas are not as important as those in the higher-density population areas."

A pipeline-safety bill now close to passage in Washington once again brings up the issue

of ending the exemption for rural gathering lines. Just as before, the bill calls only for yet another study - due in two years.

Industry representatives are still skeptical. Jeff Applekamp, director of government affairs for the Gas Producers Association, said he wasn't aware of the higher-pressure gathering lines in shale regions.

As for the possibility of new rules, he said: "All I can say is it would take more investigation" regarding the need to regulate in "these far-out remote areas."

A push for reform

In Pennsylvania, regulators were caught unprepared for the massive rollout of pipeline construction. Everywhere but Alaska and Pennsylvania, the perennially short-staffed PHMSA relies on state agencies to inspect gathering lines in gas-well fields.

Even before the Marcellus pipeline construction began in earnest, PHMSA had been imploring the Pennsylvania Public Utility Commission to take on that role, said Paul Metro, who oversees gas regulation for the PUC.

But the agency was slow to respond. Former commissioners said it just wasn't on their radar.

Starting in 2010, the PUC began holding hearings on what regulation should look like. The commission, industry, and legislators hashed out a rough consensus: Pennsylvania, like other states, would begin to enforce the federal rules.

As in Oklahoma and other states, legislators included a provision that would prohibit Pennsylvania regulators from adopting any rules more stringent than federal ones. The upshot: no rules for rural gathering lines.

"The industry wanted some assurances" that the PUC would not try to overstep federal law, said Fran Cleaver, staff director of the state Senate Consumer Protection Committee.

"I think this is what we could negotiate to get a consensus right now," she said. "This was as much as we could do."

The Pennsylvania House and Senate each passed versions of a pipeline regulation bill earlier this year. The two versions are similar, and a reconciled version is expected to become law soon.

The legislation will likely include a provision for a state registry for all gathering lines - but still no safety rules in rural areas.

That hasn't gone over well with landowners, activists, and some government officials in the shale fields.

"The safety of a selected class of citizens will be deemed expendable," Lynn Senick, a resident of Montrose in Susquehanna County, a center of shale drilling, testified before the PUC.

Those protests have apparently helped sway some players in Harrisburg.

Over the summer, Gov. Corbett's Marcellus Shale advisory commission voted, 27-0, to recommend extending rules to rural areas.

"Those citizens in those areas are saying, 'We want regulation,' " Robert Powelson, the PUC chairman and commission member, said in an interview.

"We heard them loud and clear."

State Sen. Lisa J. Baker, sponsor of the Senate version of the pipeline-regulation bill, said she was preparing another measure that would have the PUC oversee all lines, rural or not.

Her Luzerne County district is a hotbed of protest against pipelines.

"These are high-pressure lines carrying gas near their homes," Baker said of her constituents, "and they think they should have the same protections as people who live in more urban areas."

Even so, any move to extend regulation may face opposition from the industry and its supporters in Harrisburg.

State Rep. Matt Baker, a Republican from Tioga County who is a leader on pipeline issues in his chamber, said he remained opposed to having the state take the lead and regulate Class 1. Baker, no relation to Lisa Baker, represents a district that includes parts of Bradford and Tioga Counties, areas laced with well pads and pipelines.

"The reason the feds don't do it is that with the cost-benefit analysis, there just isn't a substantiated need to do so," he said.

The Marcellus Shale Coalition agrees. The influential trade group says the question of regulation in rural America should be settled at the federal level, not by every state passing its own rules.

The coalition chairman, Spigelmyer, says all Pennsylvania gas pipelines, rural or not, should be listed in a registry, but he stopped short of endorsing new regulation.

"We're trying to do what's right in the field," he said. "Let's face it - the Marcellus is being developed with the highest integrity standards."

Contact staff writer Craig R. McCoy at 215-854-4821 or cmccoy@phillynews.com.

Battle Lines: A Four-Part Series

Sunday

Powerful pipes, weak oversight. Pennsylvania, a center of the shale gas revolution, is now facing a second wave of construction: the build-out of pipelines to get the gas to market. Yet the pipelines often go unregulated.

Monday

Similar pipes, different rules. Gathering lines that link wellheads to interstate lines are being built in large numbers in Pennsylvania to carry shale gas. They are large and move gas at high pressure - but don't receive the same regulation as similar interstate pipelines.

Tuesday

"Us vs. Them" in Pa. Gasland. Community activists have begun to take on pipeline companies, but the industry is fighting back - and winning.

Sunday, Dec. 18

Aging pipes, deadly hazards. Philadelphia and other cities have an aging network of old cast-iron pipes to get gas to homes. These pipes blew up this year with fatal consequences in Philadelphia and Allentown.

AT PHILLY.COM

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COMING TUESDAY

As activists take on pipeline companies, the industry is fighting back.

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CITATION (AGLC STYLE)

Craig R. McCoy and Joseph Tanfani INQUIRER STAFF WRITERS, 'Similar Pipes, Different Rules U.S. safety rules govern many pipelines, but none cover those going from wells in rural areas.', *Philadelphia Inquirer, The* (online), 12 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13BA081EC7C9B6A0>>



'Us vs. Them' in Pa. Gaslands - Pa. looks set to strip cities and towns of the power to restrict wells and pipelines.

December 13, 2011 | Philadelphia Inquirer, The (PA)

Author: Craig R. McCoy and Joseph Tanfani INQUIRER STAFF WRITERS | Section: LOCAL | 3869 Words

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The solicitor's voice shook as he tried to explain to a hostile crowd that natural gas pipelines are perfectly legal.

"If we have to have this," Tom Brennan said, "let's at least try to control it and have it on our own terms."

With that, to scattered applause and more groans, the township supervisors here decided to end a war over natural gas pipes that bitterly divided this town, a gateway to the rich Marcellus Shale region.

The compromise was a new, custom-tailored ordinance that banned high-pressure pipelines in residential neighborhoods, but permitted them in areas zoned for farms or factories.

Now, it appears the township's painstaking effort to craft a compromise between warring factions added up to nothing.

In what is shaping up as a key victory for the shale-gas industry, Gov. Corbett and the legislature appear close to stripping municipalities of the power to impose tough local restrictions on wells and pipelines. Under a pending measure, wells and pipelines would be permitted in every zoning district - even residential ones - statewide.

And the industry isn't stopping there.

Two pipeline companies are seeking the clout of eminent domain. While the Pennsylvania Public Utility Commission has yet to rule, it signaled this year that it was

leaning toward giving firms condemnation power to gain rights-of-way for their pipelines.

Dallas Township - an affluent suburb outside Wilkes-Barre in the Endless Mountains - is just one battlefield in a war that has flared in more and more Pennsylvania towns. The increasingly contentious conflict centers on proliferation of the new, large-diameter, high-pressure pipelines that carry Marcellus Shale gas to market.

In part, the war over pipelines is a proxy struggle over "fracking" itself.

As one Dallas Township opponent wrote in a Facebook message: "It is all one package. You cannot have a well without a pipeline, compressor and metering station, or vice versa. Stop just one, and stop all."

Political hardball

In its pursuit of its high-stakes agenda, the industry has been more than willing to play hardball, unleashing its lawyers and lobbyists.

Perhaps the most aggressive move came here in Dallas Township, in Luzerne County, when a Texas pipeline firm, Chief Gathering L.L.C., filed a lawsuit this fall threatening three of its opponents with potentially millions of dollars in damages. The suit said its opposition had subjected the firm to "public hatred, contempt, and ridicule in the community."

As evidence, Chief attached 22 pages of critical postings on Facebook.

In another instance, Chesapeake Energy - the biggest driller in Pennsylvania - sent off a mass letter this summer to leaseholders in five counties, asking them to write Congress and complain about the Army Corps of Engineers, which must approve many pipelines that cross streams.

The "Dear Mineral Owner" letter warned that a corps review of gas pipeline projects was unduly holding up production - and delaying "royalty payments to you."

David J. Spigelmyer, Chesapeake's vice president and in-house lobbyist and the letter's author, said in an interview that the firm simply wanted its leaseholders to know who was to blame; the corps denies creating serious delays.

"At the time we had over 100 wells waiting on pipelines," said Spigelmyer, also the new chairman of the Marcellus Shale Coalition, the leading industry trade group.

"I believe we had an obligation to communicate with those leaseholders who had royalties withheld until we could get pipelines built to those locations."

In Westmoreland County, near Pittsburgh, Range Resources successfully filed suit to strike down the drilling and pipelines ordinance in Salem Township.

The court case, said Township Solicitor Gary Falatovich, "did a really good job of dismantling every modest control that the township was trying to impose. What can I tell you?"

Then there was the epic battle waged for more than a year over the Marc 1 - for Marcellus - a 39-mile, \$257 million project that would open a new swath of Bradford, Lycoming, and Sullivan Counties to gas development.

The Marc 1 is not a gathering line running directly from wellheads, like most of the new pipeline construction in the state. It is a giant "hub" line of 30-inch-diameter steel pipe connecting two major interstate lines. Opponents fear many new clusters of wells will be drilled along the line and tie into it.

"If that Marc 1 pipeline goes through, it will be the equivalent of a superhighway for development," said Anne Harris Katz, a research biologist and activist.

Because it would link interstate lines, the Federal Energy Regulatory Commission (FERC) needed to grant approval before construction could start. And opponents of gas development thus got a rare chance to register loud disapproval in a public forum.

They flooded federal officials with thousands of letters opposing the line, and raising the specter of forest destruction and stream pollution.

In an unusual move, the U.S. Environmental Protection Agency aligned itself with skeptics, saying the line should not go forward without an in-depth study to consider the environmental impact of the drilling industry the new line would enable.

Last month, the industry prevailed after a bruising battle. FERC brushed aside EPA's concerns and granted the pipeline a green light.

Construction is to begin soon. Within days of approval, the line's builder filed scores of condemnation notices for the pipeline right-of-way.

Too late for harmony

Inside the stuffy, standing-room-only Dallas Township supervisors meeting in October, six children crouched in front of the table where the local officials sat, holding brightly colored placards. "Save the Earth," read one.

One woman held a sign showing an explosion with the words, "Sympathy and candles won't be enough."

Brennan, the solicitor, appealed for harmony.

"I'm trying to avoid this becoming 'us vs. them,' " he said.

It was already way too late for that.

Dallas Township found itself at the center of the pipeline debate because it is home to a stretch of a key interstate gas transmission line.

That's the Transcontinental, a 10,500-mile pipeline system that runs north from Texas. It is owned by Williams, of Tulsa, Okla., one of the nation's largest gas producers.

Williams and Chief, which is based in Dallas, Texas, have each stirred controversy by launching multimillion-dollar projects to lay new gathering pipelines to connect with the Transcontinental.

The new Williams line snakes 33 miles through three counties. It begins at drill sites in Susquehanna County, travels south through Wyoming County, and ends in Dallas Township.

The line, 24 inches wide, will operate at high pressure, up to 1,440 pounds per square inch. Every day, it will transport enough gas to heat roughly 6,000 homes for a year.

Chief's \$150 million pipeline, also 24 inches in diameter and high pressure, is a few miles shorter. It will run from Wyoming County into Dallas Township.

Even so, after Chief filed plans to equip the new line with a compressor station not far from the township's massive 2,700-student school complex - a high school, middle school, and two elementary schools - residents turned out by the scores for a heated municipal meeting.

"The only thing missing from the hearing were pitchforks and torches," said Norm Tomchak, 69, a retired railroad engineer and a leader in the area's Gas Drilling Awareness Coalition, which has papered the township with "pipelines no" signs.

Though the Transcontinental line has operated without incident in Dallas Township since it was buried in 1946 - running by the township building, a nursing home, and Misericordia University - residents now are studying up on pipelines and asking skeptical questions about them.

"Five years ago, who knew about gas lines, who cared about gas pipelines? Who cared about gas drilling here in the Northeast? Nobody," Tomchak said.

That has changed.

Critics in Dallas Township took note when a section of the Transcontinental line

suddenly ruptured and exploded in Appomattox, Va., in 2008, injuring five people and destroying two homes.

Eight days ago, the same pipeline failed in Alabama. No one was hurt, but the explosion shot flames skyward 100 feet for more than an hour and sent a 47-foot-long piece of buried pipe flying 200 feet.

Now, the attitude is, "We don't want you. We don't want your money. We don't want your gas," Tomchak said.

But, of course, some residents do want the money. Though there are no wells in the township, about 50 property owners have signed leases to permit pipelines on their ground.

In Northeastern Pennsylvania, experts say the payments vary widely for pipeline right-of-way leases. At one point, Williams was offering Dallas residents \$10,000 for a 1,000-foot stretch of right-of-way.

Pipeline leases aside, many residents see the natural gas boom in general as an economic plus for the entire Marcellus Shale region, providing gas royalties, jobs, taxes, and fresh money spent in restaurants, shops, hotels, and other businesses.

Patrick Dougherty, a Dallas Township resident who signed a right-of-way lease with Chief, said he regretted the discord in his community. That said, Dougherty said he thought neighbors' fears over safety were misplaced.

"Could you have an accident? Could it blow up? Yeah," he said. "There's always risk. But it just goes with having a modern society."

As for environmental damage, Dougherty said the pipeline's pathway would fade back into the landscape once the digging was over.

"For six months, it might look like hell," he said. "After that, nobody will know they're there."

Pipe firm sues critics

As tempers flared, Chief this year hit hard at three Dallas Township families that had been among its most outspoken foes.

The firm sued them for "tortious interference" two days after the three families, who live in the town's wealthiest enclave, Goodleigh Estates, sued a fourth neighbor who had signed a pipeline right-of-way lease with Chief.

The families had argued that their neighbor had violated a residential covenant that banned commercial activity.

In its counterstrike, Chief said the three families had leveled "defamatory and malicious" statements against it on Facebook and in the local newspaper. Among other claims, the suit alleged that defendant Jeffrey Dickson had made a "false" statement when he told a local reporter that the pipeline would mean the felling of trees and ruin the area's "natural beauty."

In one Facebook posting cited by Chief, Dickson wrote: "I think the Gas Companies wished that they bypassed Dallas and ran their lines somewhere else. It's not too late for them to change their plans. Keep up the pressure until they explode!"

And in another, Dickson said: "We need to post a list of people that signed pipeline leases and sold out to the gas companies so they could build their stations! Everyone in the area needs to know which of their neighbors are only thinking of themselves and the \$\$'s."

In an interview with The Inquirer in October, Scott Watkins, a dentist sued by Chief along with his father, also a dentist, called it a case of "David vs. Goliath."

"I think they're obviously trying to penalize us for exercising our constitutional right to express ourselves," he said.

Late last month, Chief reached a deal with the Dicksons and the two Watkins families. Lawsuits have been dropped - and the pipeline project is going forward.

A spokeswoman for Chief said the firm made no payment to the families but agreed to change the pipeline route to spare trees.

Once so vocal, the three families are now silent. Their Facebook postings have ended.

Deborah Goldberg, managing attorney for the Northeast office of Earthjustice, a nonprofit law firm critical of the pipeline industry, denounced Chief's lawsuit.

"It's bullying," she said. "It's classic gas industry behavior, where they just throw their weight around and terrorize people to get them to back off."

A Chief spokeswoman, Kristi Gittins, disputed that, saying the suit was not about "taking away their right of speech," but the firm's need to respond to a threat to block the pipeline.

"Quite simply, it was a business decision," she said of the suit. "We have hundreds of wells, not only ours but those of other companies, waiting on the pipeline."

Refused to sign

The new Williams line has not escaped controversy, either.

Township residents Arlene and David Grudkowski and several neighbors refused to sign up when Williams offered to pay them to lay pipe across their properties. Williams ended up striking a deal with an absentee landowner who owned land adjoining theirs.

As a result, crews are now at work cutting down trees and digging a trench that wraps around the Grudkowskis' property, 100 feet or so from their house.

"We said no, and they went behind us," Arlene Grudkowski said. As she spoke to a reporter, a truck pulled up carrying massive sections of pipe.

"We're not happy about it," she said. "We're concerned that if there is any type of explosion, we're wiped, we're done."

"It's so close. It's just unbelievable for us. To stare at this all day, it makes you physically sick."

"It's not only an issue of safety," said Grudkowski's husband, David. "It's potentially changing the character of where we live. People are afraid that if they don't make a stand here, there's no end in sight."

At one point, the work in Dallas Township drew a violation notice from state environmental inspectors, for causing erosion and using an unauthorized access route.

Helen Humphreys, a spokeswoman for Williams, said its crews has fixed all the issues within 24 hours.

In interviews, officials with both Chief and Williams defended the industry's safety record.

Gittins, of Chief, and Mike Dickinson, of Williams, said pipelines were repeatedly and rigorously checked with visual inspections, X-rays of every weld, and scans with mechanical devices.

Both said their companies go beyond minimum federal safety standards when they install lines.

As far as the landscape, the industry says it strives to limit any impact during the digging and after.

At most, Dickinson said, lines create a "thin green corridor that would cut through the countryside that we can do our work on and maintain the pipe on, no different than maybe a corridor that a high-line wire runs through."

"We might say even less invasive than that because there's nothing visual to see except for grass on those corridors."

Firms said rules don't apply

While neighbors quarreled over an ordinance to limit prospective new lines, township zoning officials struggled to bargain with Chief and Williams over projects already in the works - a difficult task, given that both firms suggested that zoning rules did not apply to them.

"Natural gas pipelines are not subject to zoning restrictions or approval proceedings," Chief wrote the township in June.

In the end, a deal was struck this summer. The firms got the right to lay their pipelines in the township, but dropped plans for compressors, odorizers, and communications towers.

Aside from metering stations, they said they would keep future facilities at least 1 3/4 miles from the township school campus. They also did not pursue challenges to the township's zoning.

As the township's zoning board took up Chief's case for a metering station last week, it grappled with a headache afflicting many shale communities - the increasingly common linkages between officials and the shale industry.

Zoning board member Conrad Higgins has signed a pipeline lease with Chief and has recused himself from votes on pipelines. But, under state ethics law, he can vote to break ties.

Another board member, chairman Robert Bayer, is an executive with Linde Corp., a firm whose website says it "specializes in Marcellus Shale, municipal and utility pipeline construction." Its jobs include the Williams pipeline project.

Bayer said he would recuse himself from the zoning hearings for Williams, but would

take part in those for Chief. "I think I can remain impartial," he said.

Last week, Bayer and another board member voted to approve a Chief zoning request for a metering station on its pipeline. Higgins abstained.

Grass-roots movement

The effort to regulate pipelines in Dallas Township is part of a grass-roots movement in Pennsylvania.

Belatedly, many municipal leaders have come to realize that their communities have few land-use tools to deal with the drilling and pipeline-construction boom.

John Gaadt, a planning consultant in Chester County who won federal funding to draft model local pipe ordinances, said many communities' regulations do not even contain the word pipeline. In many rural communities in the heart of shale country, he and others note, there are no zoning codes at all.

While Dallas Township's new ordinance may be nipped in the bud by a statewide law, Gaadt urges communities to take other steps.

One suggestion is to limit construction near pipelines, especially of buildings like office plazas or retirement homes.

Beyond definite setback rules, Gaadt and other experts say towns should create even wider "consultation zones" - areas where developers and pipeline owners would have to at least talk with one another before building could take place.

In Dallas Township, the ordinance would have banned pipelines in residential areas.

While the Marcellus Shale industry has signaled its willingness to pay some sort of drilling tax or impact fee, it also has made it plain that it would like something in return: a strict limit on local government's power to regulate the industry.

Legislation that would turn this trade-off into law is in the works in Harrisburg. The Senate passed its bill last month, 29-20, and the House approved its proposal, 107-76. Passage of a reconciled final law is expected soon.

In any event, both measures treat local zoning the same way. They state that all local ordinances must "authorize oil and gas operations," including pipelines, in all zoning districts."

Significantly, the proposed law would require local governments to treat gas operations as "permitted" uses, not as "conditional" ones. The latter designation would require firms to go through more extensive reviews.

"Not only must you permit it, but you cannot put conditions on it," said Myron Arnowitt, the state director for Clean Water Action, an environmental group helping drum up opposition to the state preemption.

The Dallas Township ordinance would treat pipelines as conditional uses. The industry opposes this approach, saying it amounts to "death by a thousand paper cuts" by requiring far too many hearings, a Range Resources spokesman has said.

Before the state Senate and House took up the measure last month, Gov. Corbett released a statement calling for "a reasonable, consistent and uniform set of rules across the commonwealth."

While all Pennsylvanians want "clear air, clean water, and safety in this growing industry," Corbett wrote, a statewide set of standards was needed to advance "one other goal" - jobs.

The governor also noted that the statewide measure would impose some common controls, such as a noise limit for compressor stations. In residential areas, all wells must be at least 500 feet from the nearest building.

There would be no such setback restrictions for pipelines, though.

The bill has teeth. If the courts or the attorney general finds a community's local law in conflict with the state measure, the community will lose all of its impact-fee money.

Arnowitz said the law would undercut work in dozens of communities.

"This is not a compromise piece of legislation; this is allowing the gas industry to write our local laws," he said.

"I don't think there is a single township that passed a new zoning ordinance in the past three years that meets the new standards. The local laws that have been passed are stricter."

But Spigelmyer, the Chesapeake executive and Marcellus Shale Coalition chairman, said statewide uniformity was sorely needed.

In recent months, he said, more than 80 municipalities across the state have moved to adopt unduly restrictive and unfair rules.

"The way it was working," he said, "they were taking your rights away from you."

Spigelmyer said the pending measure reaffirmed past statutes giving the state government a virtual monopoly in gas and oil regulation.

The measure has stirred considerable conflict among municipal leaders - who want the revenue from the impact fees, but resent the loss of their local powers.

David M. Sanko, executive director of the State Association of Township Supervisors, said his organization was looking for a "sensible, reasonable common ground" that would strike a balance between state and local authority.

Larry Grimm, a supervisor in Mount Pleasant Township in Westmoreland County, was more emphatic. He said Corbett and the legislature were stripping local officials of the ability to tailor laws to fit their unique areas.

"We're different than they are up there in Potter County, enormously different," Grimm said. "They're taking that away from us. It's just that simple."

In Dallas, with opposition quieted, the Williams gathering line is now nearly done. Work on the Chief line is to start next month and finish by the summer.

As for the zoning law that galvanized the township, it is likely to be wiped out when a new state law passes next year.

Even Tomchak, once among the most outspoken pipeline fighters in Dallas, now says he's reluctant to speak out, for fear of being sued like his neighbors.

"I'll work in the background as much as I can," Tomchak said. "I don't want a lawsuit. I'm not rich. I can't afford to defend myself."

Contact staff writer Craig R. McCoy at 215-854-4821 or cmccoy@phillynews.com.

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COMING SUNDAY

The safety hazards posed by aging cast-iron pipelines.

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CITATION (AGLC STYLE)

Craig R. McCoy and Joseph Tanfani INQUIRER STAFF WRITERS, 'Us vs. Them' in Pa. Gaslands Pa. looks set to strip cities and towns of the power to restrict wells and pipelines.', *Philadelphia Inquirer, The* (online), 13 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13BA081DD6A71668>>



Aging Pipes, Deadly Hazards - Miles of leak-prone, cast-iron gas lines run beneath Pa. streets. Slow repair and replacement rates can be deadly.

December 18, 2011 | Philadelphia Inquirer, The (PA)

Author: Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS | Section: LOCAL | 3715 Words

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Sean Sellers was standing outside his Tacony home in January, a strong smell of natural gas in the air, pointing out the bubbles escaping through cracks in the street to a utility worker.

"Then I saw a bright-orange flash and, a split-second later, boom," he said. The explosion knocked him on his back, which was lucky: "There were bricks flying past my head."

The blast, caused by a leak in a 68-year-old cast-iron pipeline, killed Mark Keeley, 19, a Philadelphia Gas Works employee sent next door to try to fix the leak, and put six others in the hospital.

The explosion leveled an adjacent chiropractic office, broke windows for two blocks around, and tore the front wall off Sellers' home. "It looked like a geyser," he said, "a geyser of fire."

Despite a long history of accidents, and a stack of warnings from safety investigators, there are still thousands of miles of antiquated, leak-prone, cast-iron pipelines running under the streets of Pennsylvania cities and towns. Some are more than 100 years old.

Just three weeks after the Tacony blast, another massive gas explosion, in Allentown, destroyed eight homes and killed five people, including a retired couple and a 4-month-old baby. This one, too, was caused by a leak in an aged cast-iron pipeline, installed in 1928.

When it comes to natural gas pipes, these failing older utility lines pose the greatest

safety hazard in Pennsylvania and the rest of the country. Although the dangers have been known for decades, utilities have been moving slowly to replace the lines, and there are no rules requiring them to move faster.

Last week, state utility regulators charged PGW with a number of safety violations regarding the Tacony accident, near the intersection of Torresdale Avenue and Disston Street. One violation was for a broken valve that went unrepaired for five months.

For PGW, owned by the City of Philadelphia, more than half of its 3,000 miles of gas mains are still made of cast iron, the highest percentage of any utility in the country. The city also ranks first in the share of pipeline installed before 1960.

At the current replacement rate, about 18 miles a year, it will take PGW 85 years to get rid of all the cast iron. "If we had our druthers, we'd replace all the pipe tomorrow," said Randall Gyory, PGW's senior vice president for operations.

But that's not practical, he said. The cost would be about \$1.6 billion. As it is, Gyory said, replacing iron pipes eats up 60 percent of PGW's capital budget every year.

In the meantime, these pipes keep leaking. A look beneath the surface of Philadelphia's streets reveals a PGW system where potentially fatal hazards are commonplace, and utility workers have to race to keep them in check:

Philadelphia has more than 2,000 leaks in its gas mains every year - most of them during cold weather, when frost causes the ground to buckle and the pipes to bend. During 2009, leaks spiked to more than 2,600.

By far, the most dangerous leaks happen when the old mains actually rupture, as happened in the Tacony accident in January. Each year, the city averages more than 300 such main breaks.

Philadelphia has some of the oldest gas pipes still in service in America. Nearly a quarter of them were put in the ground before 1920 - and 10 percent date from the 1800s.

More than 1,100 blocks in Philadelphia are served by gas mains that have broken three or more times, according to one 2007 report. At that time, there were still 57 blocks where the mains had broken five or more times.

The utility declined to reveal the locations of these leakiest pipes, citing the need to protect the system from terrorists.

Still, a map in a 2008 consulting study showed so-called hot zones of leak-prone gas mains scattered throughout the city's neighborhoods, including Fairmount, East Oak Lane, Kensington, and Kingsessing.

This block-by-block tracking system - used by PGW to prioritize its pipe replacements - doesn't always prevent accidents. There had never been a pipeline break in that block of Disston Street before the January accident, PGW said.

Meanwhile, the Pennsylvania Public Utility Commission, in its safety complaint on the Tacony accident, said the utility had not been recording enough details on the condition of its pipes - including how badly they were corroded.

As is the case with pipelines across the country, most of the responsibility for checking the safety of these old, failing, cast-iron pipes falls to the utilities themselves. Government safety checks are mostly handled by thinly staffed groups of state agencies; Pennsylvania has just eight PUC inspectors to cover the whole state.

And the federal safety agency - the Pipeline and Hazardous Materials Safety Administration, a small office within the Department of Transportation - was criticized this fall for its weak oversight of state safety programs.

Promising to do better, the federal agency last week began a series of utility safety audits - beginning in Pennsylvania. The agency's first stop was UGI Utilities Inc. in Allentown.

"We need some more regulation," said Allentown Mayor Ed Pawlowski, who after the accident became a national voice for tougher rules. "And if the state isn't going to do it,

I'm going to keep fighting at the federal level to put regulations in place. Because I'm scared."

'The Twilight Zone'

In Allentown, on the night of Feb. 9, there was no smell of gas, no warning that a pipe was leaking.

When it blew up, at 10:45 p.m., the force ripped free the front door frame of Donald O'Shall's home and sent it flying, striking him in the head. O'Shall thought a bomb had gone off.

"It was tremendously loud," he said. "It's like the whole world jumped."

O'Shall, 61, a locksmith on disability due to cancer, rushed outside to find his neighborhood in ruins. "It was like something from 'The Twilight Zone,' " he said. "It was like seeing a desolate, war-strewn neighborhood. There was debris everywhere."

Killed in the blast were William Hall, 79, who was retired from a bank; his wife, Beatrice, 74; and three people next door - Ofelia Ben, 69; her granddaughter, Katherine Cruz, 16; and Cruz's son Matthew, just 4 months.

More than 600 were evacuated, and the fire burned for four hours.

O'Shall said he was glad the pipeline exploded late in the evening. That way, he said, there was no one at the school bus stop on the corner.

"If it had been the daytime, it would have been horrendous," he said. "Don't get me wrong. It was bad enough as it was. Five people died. Eight homes were destroyed. We lost everything we had. Everything."

Mayor Pawlowski says his fire department routinely scrambles on gas leaks.

He has been pushing UGI to move faster on getting the old pipe out of the ground.

After the Allentown accident, UGI said it would replace six miles of cast-iron pipe in Allentown, double what it did last year, leaving the city with 73 miles of cast-iron pipe. Replacing the pipe costs UGI about \$650,000 a mile.

At its current pace, it will take UGI more than a decade to replace all the cast-iron lines in Allentown.

"That's insane to me," Pawlowski said. "They're making some additional effort this year, but honestly, I think it's way too little, and it's way too late."

He said UGI wouldn't even provide the city with a detailed map of the old pipelines.

"They showed me a map once on my desk," Pawlowski said. "They quickly rolled it up and took it back."

Since 2001, UGI's three utilities in Pennsylvania replaced a total of 189 miles of cast- or wrought-iron mains, the company says.

"We continually evaluate our protocols to ensure we are making prudent decisions regarding our natural gas pipeline replacement program," a company statement said.

A report on the cause of the blast still hasn't been released. The Edison, N.J., lab that studied the mangled pipe was hired by UGI, standard practice in Pennsylvania.

"We don't have the resources to do it," said Jennifer Kocher, a PUC spokeswoman. She said that the labs were "independent" and that their findings were just one piece in the PUC's evaluation about what went wrong.

The PUC declined to make public the lab report from Allentown, saying it was part of a larger investigation.

A record of warnings

Cast-iron pipelines can operate without trouble for many decades, so long as they aren't disturbed. But as they age, they can become more brittle and susceptible to problems: cracks from frost, leaks from joints, buckling from the pressure of street traffic.

"It's damn amazing they should have lasted that long," said Don Deaver, a pipeline-safety consultant from Texas.

Smaller cast-iron pipes are particularly fragile - and the most dangerous. PGW still has more than 1,000 miles of smaller cast-iron mains in its inventory.

Studies have shown old cast-iron pipes are "highly and disproportionately" involved in serious accidents, said Jeffrey D. Wiese, a top pipeline-safety regulator with the Pipeline and Hazardous Materials Safety Administration, speaking at an industry conference.

In 1986, the National Transportation Safety Board, which investigates some pipeline accidents, said that leaks per mile in old cast-iron lines were increasing and that utilities should begin phasing out the pipe.

Before this year, cast-iron pipe failures have caused other deadly accidents, in both Philadelphia and Allentown.

Since 1985, 11 people were killed in natural gas accidents in Philadelphia - eight of them involving cast-iron mains, according to PGW.

The worst came in May 1979, when seven people were killed and 19 injured in an explosion that blew apart George's Bar & Restaurant at Tacony and Margaret Streets. In 1985, three people died in a blast that wrecked four rowhouses on North Mascher Street in West Kensington.

Both times, the mains cracked when leaking water eroded the ground underneath, leaving them hanging in the air unsupported. When that happens, the old cast-iron pipes are much more likely to crack than ones made of modern steel.

Fire officials also said they found a water-main break near the location of the 1942-

vintage, 12-inch cast-iron gas main that caused the January explosion in Tacony, though the investigation results weren't complete.

In Allentown, a main snapped in August 1990, about a mile from the one that blew up this year, touching off an explosion that destroyed two rowhouses and killed a 44-year-old woman. Leaking water pipes were implicated in that incident, too, but the NTSB said the four-inch gas pipeline, dating from 1903, was so badly corroded that failure was "inevitable."

In that report, the NTSB laid blame on the "failure" of UGI Utilities to adequately monitor its pipelines and replace sections weakened by corrosion. It warned that the city was still riddled with century-old, cast-iron gas lines and leaky water pipes that had created dangerous, hidden sinkholes underneath them.

But UGI didn't exactly rush to respond to the NTSB's warnings. In the decade after that report, UGI replaced 55 miles of cast-iron pipe - 15 fewer miles than it had done the previous decade, company figures show.

A similar lack of urgency has pervaded the entire utility industry, according to the NTSB, which said the industry was not doing nearly enough to protect the public from dangerous pipelines.

For many utilities, the NTSB said, safety inspections consisted of workers' scraping suspect pipes with a knife to see if they were soft enough to produce shavings. When the pipes leaked, most utilities "normally do little more than install a leak clamp around the crack and keep the pipeline in operation."

Top executives at UGI and PGW say they work diligently to keep their pipes safe. "It's a core value of our business," said Daniel Adamo, a UGI spokesman, "and we take it very seriously."

Gyory says PGW moves aggressively to respond when people report smelling gas. In more than 97 percent of all reports of possible leaks, PGW has crews on the scene in less than an hour.

For gas utilities in places like Philadelphia, with vast miles of aging, brittle mains under their streets, winter is the anxious season. The best utilities can do is try to manage the leaks - and, when they happen, rush to plug them before an explosion.

At PGW, they move workers to the "leak-management" team and step up their so-called frost surveys. Every three years, PGW workers walk the whole city, looking for leaks.

In deciding which pipelines to replace first, PGW uses a formula that takes into account the size of the pipe, its age, and most important, how many times it has leaked before.

"They're rolling the dice with that old pipe in the ground," said Bob Ackley, owner of Gas Safety Inc., a Massachusetts firm that performs gas-leak surveys.

With so many miles of leaky pipe, and so few being replaced every year, Ackley said utilities' assurances of safety ring hollow. "They say the system is safe. They usually say it right after someone gets killed."

A push for more safety

After the Allentown explosion, U.S. Transportation Secretary Ray LaHood came to the city and, standing at the site of another deadly gas explosion in 1994, called for stronger safety rules - including an effort to step up replacement of older, riskier pipelines.

"People shouldn't have to worry when they flip a light switch in their kitchen that it could cause an explosion in their front yard," he said.

But nothing on the horizon in Washington or Harrisburg would force utilities to move faster.

U.S. Sen. Bob Casey (D., Pa.) pushed through a measure that would require utilities to make reports on their progress on replacing cast-iron pipelines, and for the Pipeline and Hazardous Materials agency to check up on them. But the agency's report isn't due to Congress for two more years.

The idea, Casey said, is to focus more attention on the utilities' performance and spur public pressure. He had pushed for more frequent reporting requirements, but they were stripped out of a compromise version.

"I think they have to take more responsibility than they have to date," he said in an interview. "A company like UGI would be wise to really focus on the outrage that people feel and the demand for change."

As for why there's no timetable for replacing the pipe, Casey said: "Sometimes, it's what you can pass and what's achievable."

Cost has been a formidable obstacle.

It's a particularly high hurdle for PGW, which serves the poorest big city in the country and already charges the highest gas bills in the state. The utility's past financial troubles mean it is still saddled with big debts that make borrowing more expensive.

Rina Cutler, a deputy mayor, says the city would like to move faster - but isn't sure PGW's customers could tolerate the added cost. "Whether we're talking about gas mains or water mains or roads or bridges, the infrastructure is crumbling fast," Cutler said, "and no one seems to want to figure out how to fund it. And it's disgraceful."

But there appears to be little appetite in Congress for providing money to replace these failing natural gas pipelines.

"That is a Philadelphia problem," said U.S. Rep. Bill Shuster, a Republican from south-central Pennsylvania, and chairman of a subcommittee that oversees pipeline safety.

"If the people of the city of Philadelphia care about that, they ought to act on it," Shuster said. "It's going to cost a lot of money. It shouldn't be something forced on consumers by the federal government."

Four years ago, State Rep. Dwight Evans (D., Phila.) proposed a \$1 billion loan fund for

utilities to replace old pipes and other ancient infrastructure, but it went nowhere.

"As usual, the problem is no one pays attention to this stuff until someone gets killed," Evans said. "This is out-of-sight, out-of-mind."

The state House this year passed a bill that would allow utilities, with PUC permission, to apply a surcharge to bills to pay for replacement of the old lines.

That would allow utilities to recover costs without going through a long, expensive rate-hike proceeding before the PUC; a similar method is already in place for Pennsylvania's water utilities.

The bill is now before the state Senate, which is expected to take up action in January.

Once again, the measure has drawn opposition from some legislators and consumer advocates, who say they would give gas companies a way to raise customers' bills without having to justify it.

Irwin A. "Sonny" Popowsky, Pennsylvania's consumer advocate, says the law is flawed; he thinks it would allow utilities to use the surcharge as a backdoor way to boost profit.

If legislators were serious about boosting safety, he said, they would also require utilities to step up the pace of their cast-iron replacement - not allow them to set their own schedule. "The bill would allow them to continue with business as usual," he said.

Last month, the PUC said it wanted utilities to file new plans by next summer on how it would manage the risks of the cast-iron pipe.

But neither the legislation nor the new PUC rules would require utilities to do the work faster.

"The companies want to do this," said Terrance Fitzpatrick, president of the Energy Association of Pennsylvania, a utility lobbying group. They'll move more quickly if they have an easier way to recover costs, he said.

Pennsylvania's utilities, he said, have done "a reasonable job" in replacing the old lines. "I do think we can do better, though."

Pawlowski said utilities like UGI could afford to invest more in replacing their old pipes. UGI reported \$232 million in net income last year. PGW reported net earnings of \$58 million.

"Though I understand the economics, I think safety has to trump here," the mayor said. "This is something that keeps me up at night."

Many of the Allentown victims are still putting their lives back together. Some have received settlements from UGI. Other legal cases are pending. Adamo, the UGI spokesman, said the company had worked "diligently" to try to help the victims.

"We were very proactive, reaching out to the families, going door to door, expediting our claims process," he said.

Since the explosion in February, O'Shall has been a vagabond. For a few nights, a Comfort Inn put him up for free. Then, his employer rented him an apartment. Finally, with money raised by a charity drive, he bought a foreclosed and vandalized house in Florida, near one of his sons.

"They were giving it away for next to nothing, and next to nothing was what I had left from the collection money," he said.

He says that he misses Allentown but that his new town has a big plus: "There's no gas lines anywhere. That's good."

Contact staff writer Joseph Tanfani at 215-854-2684 or jtanfani@phillynews.com.

Before You Dig, Be Sure to Call 811

Anyone who will be digging as part of a construction project should call 811 at least

three days before starting work.

The state's One Call System will notify the owners of underground lines so that their crews can come out to the work site and mark the lines.

The spread of One Call Systems nationwide over the last 15 years has done much to reduce injuries caused by excavators' hitting underground lines.

For more information, go to the system's website, at www.paonecall.org.

Battle Lines: A Four-Part Series

Last Sunday

Powerful pipes, weak oversight. Pennsylvania, a center of the shale gas revolution, is now facing a second wave of construction:

the build-out of pipelines to get the gas to market. Yet the pipelines often go unregulated.

Monday

Same pipe, different rules. Gathering lines that link wellheads to interstate lines are being built in large numbers in Pennsylvania to carry shale gas. They are large and move gas at high pressure - but don't receive the same regulation as similar interstate pipelines.

Tuesday

"Us vs. Them" in Pa. Gasland. Community activists have begun to take on pipeline companies, but the industry is fighting back - and winning.

Sunday

Aging pipes, deadly hazards. Philadelphia and other cities have an aging network of old cast-iron pipes to get gas to homes. These pipes blew up this year with fatal consequences in Philadelphia and Allentown.

DEEP DRILL

REPORTS FROM PENNSYLVANIA'S GASLAND

To explore the issues in depth, go to Deep Drill at www.philly.com/deepdrill, The Inquirer's new Marcellus Shale section on the Web.

There, you can read the series, and view photo galleries, videos, and graphics - and an archive of other Inquirer stories on the shale boom and pipeline safety.

You can also:

- * Read consultants' reports on PGW's aging pipeline system. One report includes a map showing the city's most leak-prone pipes.
- * Review an interactive map showing the dramatic growth of pipelines in the epicenter of drilling - Bradford County, in northern Pennsylvania.
- * Check out an interactive map of every well permit issued since 2005 and every well drilled this year.
- * Watch a video presentation on how pipelines are built and see interviews with a pipeline company executive and a leading activist.

The Inquirer team

This project was reported by Craig R. McCoy and Joseph Tanfani. John Tierno provided graphics and analysis. Michael Bryant was the photographer and videographer. Rob Kandel, Josh Cohen, and Frank Wiese designed the online package. Pages were designed

by Steve Kelly. The project was copyedited by Bob Kelley,

Thom Guarnieri, Peter Rozovsky, and Suzanne Weston. Mike Leary was editor of the project.

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CITATION (AGLC STYLE)

Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS, 'Aging Pipes, Deadly Hazards Miles of leak-prone, cast-iron gas lines run beneath Pa. streets. Slow repair and replacement rates can be deadly.', *Philadelphia Inquirer, The* (online), 18 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13BC0518388DFF30>>



February 10, 2023

VIA E-FILING

David P. Zambito

Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

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. Westover Property Management Company, L.P.; Docket Nos. C-2022-3030251 and
P-2021-3030002**

**Motion for Summary Judgment by Westover Property Management Company, L.P.
d/b/a Westover Companies**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("Commission") is the above-referenced Motion. Copies have been served as shown on the enclosed certificate of service.

Please note that Exhibits 3, 5, 6 and 9 are Confidential and will be filed separately.

Please contact me if you have any question or concern. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for *Westover Property Management
Company d/b/a Westover Companies*

DPZ/kmg
Enclosures

cc: Deputy Chief Administrative Law Judge Christopher P. Pell
Per Certificate of Service
Peter Quercetti
Alexander Stefanelli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket Nos. C-2022-3030251 P-2021-3030002
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 10th day of February, 2023 served the foregoing **Motion for Summary Judgment by Westover Property Management Company, L.P. d/b/a Westover Companies** upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

Kayla L. Rost, Esq.
Michael L. Swindler, Esq.
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17120
karost@pa.gov
mswindler@pa.gov



David P. Zambito, Esq.
Counsel for *Westover Property Management
Company, L.P. d/b/a Westover Companies*

VERIFICATION

I, Peter D. Quercetti, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: February 10, 2023

Peter D. Quercetti

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies	:	

NOTICE TO PLEAD

Pursuant to 52 Pa. Code § 5.102, you are hereby notified that Westover Property Management Company (“Westover”) has filed a Motion for Summary Judgment at the above-referenced dockets, to which you may file an answer within twenty (20) days unless otherwise provided in Chapter 5 of Title 52 of the Pennsylvania Code or by the Commission. Your failure to answer will allow the Commission to rule on the Motion without a response from you, thereby requiring no other proof. All pleadings, such as an Answer, must be filed with the Secretary of the Pennsylvania Public Utility Commission, with a copy served on counsel for Westover, and where applicable the Administrative Law Judge presiding over the case.

File with:

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

With a copy to:

David P. Zambito, Esq. (PA ID #80017)
Jonathan P. Nase, Esq. (PA ID #44003)
Cozen O’Connor
17 North Second St., Suite 1410
Harrisburg, PA 17101



David P. Zambito, Esq. (I.D. No. 80017)
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Counsel for *Westover Property Management
Company, L.P. d/b/a/ Westover Companies*

Date: February 10, 2023

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

**MOTION FOR SUMMARY JUDGMENT BY WESTOVER
PROPERTY MANAGEMENT
COMPANY, L.P. D/B/A WESTOVER COMPANIES**

AND NOW COMES Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) pursuant to 52 Pa. Code § 5.102, to file this Motion for Summary Judgment (“Motion”). Westover respectfully requests that Deputy Chief Administrative Law Judge Christopher P. Pell (the “ALJ”) find that none of the natural gas systems involved in this case (the “Systems”) are “master meter systems” because they are located entirely within the definable area of the applicable apartment complex or commercial property. Consequently, Westover requests that the ALJ: (a) dismiss the Complaint in its entirety, and (b) grant Westover’s Petition for Declaratory Order (as amended, the “Petition”) in its entirety.

In support whereof, Westover avers as follows:

I. Procedural History

A. Westover’s Petition for Declaratory Order

1. On December 13, 2021, Westover filed its original Petition for Declaratory Order (the “Original Petition”) to resolve a case and controversy by declaring that Westover is not a

“pipeline operator” as defined in the Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.* (“Act 127”). The Original Petition, which received Docket No. P-2021-3030002, asked the Pennsylvania Public Utility Commission (“Commission”) to declare that: (a) the Systems are not subject to Act 127, and (b) that Westover’s registration as an Act 127 pipeline operator (“Act 127 Registration”) is null and void. Petition pp. 10-11.

2. On January 3, 2022, the Commission’s Bureau of Investigation and Enforcement (“I&E”) filed an Answer in Opposition to Westover’s Petition.

3. On May 16, 2022, Westover filed an Amended Petition for Declaratory Order (the “Amended Petition”), which pleaded additional facts concerning Westover’s gas facilities at its apartment complexes. Among other things, the Amended Petition asked the Commission to find that Westover is not a “pipeline operator” as defined in Act 127 because none of the Systems involved in this case satisfies the definition of a “master meter system” as set forth in 49 CFR § 191.3.

4. On June 6, 2022, I&E filed an Answer in Opposition to Westover’s Amended Petition.

B. I&E’s Complaint

5. On January 3, 2022, I&E filed a Complaint against Westover, which received Docket No. C-2022-3030251. The Secretary’s Bureau served the Complaint on Westover by e-mail on January 5, 2022. The Complaint alleged that Westover owns or operates gas systems at apartment complexes and commercial properties in Pennsylvania that are subject to Commission regulation pursuant to Act 127. The Complaint further alleged that Westover has not complied with Act 127.

6. On January 25, 2022, Westover filed its Answer and New Matter. Among other things, Westover argued that Westover is not a “pipeline operator” as defined in Act 127 because none of the Systems involved in this case satisfies the definition of a “master meter system” as set forth in 49 CFR § 191.3.

7. I&E filed its Reply to New Matter on February 14, 2022.

8. By Order entered on August 25, 2022, the Commission consolidated Westover’s Petition with I&E’s Complaint and referred both matters to the Office of Administrative Law Judge (“OALJ”) for adjudication and the issuance of a recommended decision.

9. On October 28, 2022, Westover filed a Petition for Review and Answer to Material Questions and for Immediate Stay of Proceedings (“Petition for Interlocutory Review”). Westover subsequently filed a brief in support of the Petition for Interlocutory Review and I&E filed a brief in opposition.

10. By Opinion and Order entered on November 22, 2022, the Commission declined to answer the Petition for Interlocutory Review.

C. Interim Order Addressing Motions to Compel Filed by Westover and I&E

11. On October 25, 2022, the ALJ issued an order resolving several discovery disputes between the parties. In pertinent part, the ALJ limited the scope of this proceeding to the apartment complexes named in I&E’s Complaint and those addressed by Westover in its Answer and New Matter or in its Petition. *Interim Order Addressing Motions to Compel Filed by Westover Property Management Company, L.P. and the Bureau of Investigation and Enforcement* (Oct. 25, 2022) p. 22.

12. The Systems at the following seventeen apartment complexes are identified in I&E’s Complaint:

- a. Park Court
28 South Water Street
Womelsdorf, PA 19567
- b. Oak Forest
2220 Alsace Road
Reading, PA 19604
- c. Woodland Plaza
1701 State Hill Road
Wyomissing, PA 19610
- d. Mill Creek
255 East Lincoln Highway
Pennel, PA 19407
- e. Country Manor
2151 E. Lincoln Highway
Levittown, PA 19056
- f. Fox Run
365 Newtown Road
Warminster, PA 18974
- g. Main Line Berwyn
750 Old Lancaster Road
Berwyn, PA 19312
- h. Black Hawk
1 Black Hawk Circle
Downingtown, PA 19335
- i. Paoli Place¹
27 E. Central Avenue
Paoli, PA 19301
- j. Concord Court
3701 Concord Road
Aston, PA 19014
- k. Gladstone Towers
223 Scottdale Road
Lansdowne, PA 19050

¹ Referred to herein as “Paoli North.”

- l. Hillcrest
785 West Providence Road
Lansdowne, PA 19050
- m. Lansdowne Towers
772 East Providence Road
Aldan, PA 19018
- n. Lansdale Village
219 York Avenue
Lansdale, PA 19446
- o. Norriton East
2620 Dekalb Pike
East Norriton, PA 19401
- p. Valley Stream
2100 North Line Street
Lansdale, PA 19446
- q. Willow Run
3505 Moreland Road
Willow Grove, PA 19090

13. In addition to the Systems identified above, the Systems at the following apartment complexes are within the scope of this proceeding because they are addressed by Westover in its Answer and New Matter, or in its Petition:

Paoli South
55 South Valley Road
Paoli, PA 19301

Paoli South Valley Townhomes
50 South Valley Road
Paoli, PA 19301

Carlisle Park
525 Third Street
Carlisle, PA 17013

14. In addition to the Systems identified above, the Systems at the following commercial properties are within the scope of this proceeding because they are included on

Westover's Act 127 Registration, **Exhibit 1** (Exhibit D thereof), which Westover's Petition asked be ruled null and void:

Bryn Mawr Medical Building
600 Haverford Road
Haverford, PA 19041

Bryn Mawr Medical Building
931 Haverford Road
Haverford PA 19041

D. Westover's Registration as an Act 127 Pipeline Operator

15. On July 12, 2021, Westover filed an Act 127 Pennsylvania Pipeline Operator Annual Registration Form ("Act 127 Registration"), which received Docket No. A.-2021-3027219. By Secretarial Letter dated August 30, 2021, the Commission granted Westover's request to withdraw this Registration Form.

16. On August 26, 2021, Westover filed a new Act 127 Registration, which received Docket No. A-2021-3028141.

17. On September 21, 2021, Westover amended its Act 127 Registration at Docket No. A-2021-3028141.

18. On February 23, 2022, Westover renewed its Act 127 Registration at Docket No. A-2021-3028141. **Exhibit 1.**

II. Legal Standards

19. The Commission's regulations permit a party to file a motion for summary judgment, in whole or in part.² 52 Pa. Code § 5.102. A motion for summary judgment will be

² A motion for summary judgment is to be filed after the pleadings are closed, but within a time so that the hearing is not delayed. 52 Pa. Code § 5.102(a). This Motion will not delay the hearing in this case, which is scheduled for May 3-4, 2023.

granted, in whole or in part, to the extent that the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving party is entitled to a judgment as a matter of law. 52 Pa. Code § 5.102(d)(1).

20. When disposing of a motion for summary judgment, the record must be examined in the light most favorable to the nonmoving party, giving the nonmoving party the benefit of all reasonable inferences. *First Mortgage Co. of Pa. v. McCall*, 459 A.2d 406, 408 (Pa. Super. 1983). All doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. *Thomson Coal Co. v. Pike Coal Co.*, 412 A.2d 466 (Pa. 1979).

III. Statement of Facts

A. The Systems

21. Westover is a property management company that operates (but does not own) the Systems involved in this case. **Exhibit 2 ¶ 2.**

22. This Motion contends that no Westover System meets the definition of a “master meter system” because all of the gas facilities and equipment operated by Westover are located within, and are limited to, the definable area of the applicable apartment complex or commercial property. As demonstrated below, there is no dispute among the parties concerning the location of Westover’s gas facilities and equipment.

23. To provide context, Westover will provide brief background information about each System. Westover respectfully submits that any dispute between the parties about this background information is not material for purposes of ruling on this Motion.

1. Park Court

24. At this apartment complex, gas is transferred from the natural gas distribution company (“NGDC”) to Westover at a meter³ at each building in the apartment complex. Westover pipes some of the gas to building occupants.⁴ **Exhibits 2 and 3 (CONFIDENTIAL)**.

25. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 3 (CONFIDENTIAL)**. I&E admits that all Westover gas facilities at this complex are located within the apartment complex. **Exhibit 4**, p. 6.

2. Oak Forest

26. At this apartment complex, gas is transferred from the NGDC to Westover at a meter located in the complex. Westover pipes the gas from that meter to the buildings in the complex, and ultimately pipes some of the gas to building occupants. **Exhibits 2 and 5,⁵ p. 221 (CONFIDENTIAL)**.

27. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 5**, p. 221 **(CONFIDENTIAL)**. I&E admits that all of Westover’s gas facilities are located within the apartment complex. **Exhibit 4**, page 22.

³ At all Systems involved in this case, gas is transferred from the NGDC to a customer at the meter. PECO Tariff Gas-Pa.P.U.C. No. 5 Original Page No. 6 (defining the delivery point as “That point at which the Customer’s facilities are connected to the Company’s facilities which is typically the first fitting after the outlet side of the meter connection, or in certain cases the first fitting after the outlet side of the regulator or relief valve if located downstream of the meter.”); Tariff UGI Gas – Pa. P.U.C. No. 7 Original Page No. 22 (defining point of delivery as “the outlet of company facilities; usually the meter or regulator outlet” and defining gas service as “The furnishing of gas by the Company at the point of delivery regardless of whether the Customer makes any use of the gas.”).

⁴ Westover’s Systems provide gas service only to occupants of buildings on the properties operated by Westover. In most cases, the building occupants are tenants. At some properties, however, the property owner has a leasing office on site. **Exhibit 2 ¶ 3**. Consequently, this Motion will use the term “building occupants” rather than “tenants” to describe the residents and other persons occupying the properties.

⁵ **Exhibits 5, 6 and 9** are excerpts from lengthy interrogatory responses, most of which are not relevant to the present Motion for Summary Judgment. Consequently, only the relevant pages are included in the Exhibits.

3. Woodland Plaza

28. At this apartment complex, gas is transferred from the NGDC to Westover at meters located on apartment buildings. Westover pipes some of the gas to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL).**

29. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL).** I&E admits that all of Westover's gas facilities at this complex are located within the apartment complex. **Exhibit 7**, p. 5.

4. Mill Creek Village

30. I&E's Complaint named "Mill Creek Village" as one of the apartment complexes at which Westover operates a "master meter system." Westover operates two Mill Creek Village apartment complexes: Mill Creek Village I and Mill Creek Village II. **Exhibit 2.**

31. At Mill Creek Village I, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes the gas to buildings in the complex. At each building, Westover pipes some of the gas to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL).**

32. At Mill Creek Village II, gas is transferred from the NGDC to Westover at a meter on each building. Westover pipes some of the gas to units in the building. **Exhibits 2 and 6 (CONFIDENTIAL).**

33. All gas facilities operated by Westover at Mill Creek Village I and Mill Creek Village II are located in the respective apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL).** I&E admits that all of Westover's gas facilities at Mill Creek Village I and Mill Creek Village II are located within the respective apartment complex. **Exhibit 4**, pages 8 and 9.

5. Country Manor

34. At this apartment complex, gas is transferred from the NGDC to Westover at meters on the apartment buildings. Westover pipes some of the gas to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL)**.

35. All gas facilities operated by Westover are located in the apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities at this complex are located within the apartment complex. **Exhibit 7**, p. 9.

6. Fox Run

36. At this apartment complex, gas is transferred from the NGDC to Westover at meters on the apartment buildings. Westover pipes some of the gas to units in the buildings. **Exhibits 2 and 6 (CONFIDENTIAL)**.

37. All gas facilities operated by Westover are located in the apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities at Fox Run are located within the apartment complex. **Exhibit 4**, page 20.

7. Main Line Berwyn

38. At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes the gas to buildings in the complex, and ultimately to building occupants. **Exhibits 2 and 5**, p. 197 (**CONFIDENTIAL**).

39. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 5**, p. 197 (**CONFIDENTIAL**). I&E admits that all of Westover's gas facilities at Main Line Berwyn are located within the apartment complex. **Exhibit 4**, page 24.

8. Black Hawk

40. At this apartment complex, gas is transferred from the NGDC to Westover at a meter on each building. Westover burns all of the gas and supplies heat and hot water to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL)**.

41. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities at Black Hawk are located within the apartment complex. **Exhibit 4**, p. 11.

9. Paoli Place

42. I&E's Complaint alleges that Westover's System at Paoli Place, 27 East Central Avenue, Pennsylvania is a "master meter system." Complaint ¶ 26i. In its Amended Petition, Westover discussed this complex ("Paoli North"), as well as the apartment complex at 55 South Valley Road, Paoli, Pennsylvania ("Paoli South") and the apartment complex at 50 South Valley Road, Paoli, Pennsylvania ("South Valley Townhomes"). Amended Petition ¶¶ 25-26 and 33-44, and Appendix 3

43. With regard to Paoli North (Buildings A-K) gas is transferred from the NGDC to Westover at a meter on the apartment building. Westover transports some of the gas from the meters to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL)**.

44. All of Westover's gas facilities at Paoli North (Buildings A-K) are located within the apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL)**. With regard to Paoli North, Buildings A-K, I&E admits that all of Westover's gas facilities are located within the apartment complex. **Exhibit 7**, p. 11.

45. With regard to Paoli North, Buildings L-R, gas is transferred from the NGDC to building occupants at meters located at a meter bank on the apartment building. Pipes take the gas from the meter bank to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL)**.

46. At Paoli North, Buildings L-R, all gas facilities downstream of the meter are located within the apartment complex. **Exhibit 2 and 6 (CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities at Paoli North, Buildings, L-R, are located within the apartment complex. **Exhibit 8 p. 3.**

47. With regard to the South Valley Townhomes, gas is transferred from the NGDC to building occupants at meters on each apartment building. **Exhibits 2 and 3 (CONFIDENTIAL)**.

48. All gas facilities downstream of the meter at South Valley Townhomes are located in the apartment complex. **Exhibits 2 and 3 (CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities at South Valley Townhomes are located within the apartment complex. **Exhibit 8 p. 4.**

49. With regard to Paoli South, Buildings A-D (labeled on the map in **Exhibit 3** as 77 South Valley Road), gas is transferred from the NGDC to Westover at meters on the apartment buildings. Westover transports some of the gas from the meter to building occupants. **Exhibits 2 and 3 (CONFIDENTIAL)**.

50. With regard to Paoli South, Buildings A-D, all of Westover's gas facilities are located within the apartment complex. **Exhibits 2 and 3 (CONFIDENTIAL)**. With regard to Paoli South Buildings A-D, I&E admits that all of Westover's gas facilities are located within the apartment complex. **Exhibit 8 p. 5.**

51. With regard to Paoli South, Buildings E-H (labeled on the map in **Exhibit 3** as 55 South Valley Road), gas is transferred from the NGDC to Westover at a meter located outside Building E. Westover pipes the gas to Buildings E-H and ultimately pipes some of the gas to building occupants. **Exhibits 2 and 3 (CONFIDENTIAL)**.

52. All of Westover's gas facilities at Paoli South, Buildings E-H are located within the apartment complex. **Exhibits 2 and 3 (CONFIDENTIAL)**. With regard to Paoli South, Buildings E-H, I&E admits that all of Westover's gas facilities are located within the apartment complex. **Exhibit 8** p. 6.

10. Concord Court

53. At this apartment complex, gas is transferred from the NGDC to Westover at gas meters on each apartment building. Westover burns all of the gas and supplies heat and hot water to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL)**.

54. All of Westover's gas facilities are located in the apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities at Concord Court are located within the apartment complex. **Exhibit 4**, p. 17.

11. Gladstone Towers

55. At this apartment complex, gas is transferred from the NGDC to Westover at two meters located outside the building labeled on the Entech Engineering map in **Exhibit 2** as Building AB. The meters measure the gas used by the buildings labeled AB and CD (the gas is piped through an underground line to Building CD). At each building, Westover consumes some of the gas and pipes the remainder to building occupants. **Exhibits 2 and 5**, p. 77 **(CONFIDENTIAL)**.

56. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 5**, p. 77 **(CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities at Gladstone Towers are located within the apartment complex. **Exhibit 4**, p. 23.

12. Hillcrest

57. At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover then pipes the gas to each building, and ultimately to building occupants. **Exhibits 2 and 5**, p. 94 (**CONFIDENTIAL**).

58. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 5**, p. 94 (**CONFIDENTIAL**). I&E admits that all of Westover's gas facilities at Hillcrest are located within the apartment complex. **Exhibit 4**, p. 27.

13. Lansdowne Towers

59. At this complex, gas is transferred from the NGDC to Westover at a meter inside the complex. Westover pipes the gas to each building in the complex and ultimately pipes some of the gas to building occupants. **Exhibits 2 and 5**, p. 146 (**CONFIDENTIAL**).

60. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 5**, p.146 (**CONFIDENTIAL**). I&E admits that all of Westover's gas facilities at Lansdowne Towers are located within the apartment complex. **Exhibit 4**, p. 26.

14. Lansdale Village

61. At this apartment complex, gas is transferred from the NGDC to Westover at a meter outside one building in the complex. Westover burns all of the gas and supplies heat and hot water to all units in the complex. **Exhibits 2 and 6** (**CONFIDENTIAL**).

62. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 6** (**CONFIDENTIAL**). I&E admits that all of Westover's gas facilities at Lansdale Village are located within the apartment complex. **Exhibit 4**, p. 10.

15. Norriton East

63. At this apartment complex, gas is transferred from the NGDC to Westover at a meter on the building. Westover pipes some of the gas to building occupants. **Exhibits 2 and 6 (CONFIDENTIAL)**.

64. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 6 (CONFIDENTIAL)**. I&E admits that all of Westover's gas facilities are located within the apartment complex. **Exhibit 8** p. 7.

16. Valley Stream

65. At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes the gas to each building and then pipes some of the gas to building occupants. **Exhibits 2 and 5**, p. 248 (**CONFIDENTIAL**).

66. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 5**, p. 248 (**CONFIDENTIAL**). I&E admits that all of Westover's gas facilities at Valley Stream are located within the apartment complex. **Exhibit 4**, p. 29.

17. Willow Run

67. At this apartment complex, gas is transferred from the NGDC to building occupants at meters on the buildings. **Exhibits 1 and 2**, p. 275 (**CONFIDENTIAL**).

68. All gas facilities downstream of the NGDC meter are located within the apartment complex. **Exhibits 2 and 5**, p. 275 (**CONFIDENTIAL**). I&E admits that all of Westover's gas facilities are located within the apartment complex. **Exhibit 8** p. 2.

18. Carlisle Park

69. At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes gas to each building, and then to each building occupant. **Exhibits 2 and 5**, p. 41 (**CONFIDENTIAL**).

70. All gas facilities operated by Westover are located within the apartment complex. **Exhibits 2 and 5**, p. 41 (**CONFIDENTIAL**). I&E admits that all of Westover's gas facilities are located within the apartment complex. **Exhibit 4**, p. 31.

19. Bryn Mawr Medical Building

71. Westover's Act 127 Registration includes the "Bryn Mawr Medical Building" and lists two addresses for this building: 600 Haverford Road in Haverford and 931 Haverford Road in Haverford. **Exhibit 1**, Exhibit D. These are two separate commercial properties. They are not located on adjacent parcels; they are located on opposite sides of the road several blocks from each other. They have two separate Systems. **Exhibits 2 and 9** (**CONFIDENTIAL**).

72. At 931 Haverford Road, the gas is transferred from the NGDC to Westover at a meter on the building. Westover burns all of the gas and supplies heat and hot water to building occupants. **Exhibits 2 and 9** (**CONFIDENTIAL**).

73. All of Westover's gas facilities and equipment are located within the boundaries of the property at 931 Haverford Road. **Exhibits 2 and 9** (**CONFIDENTIAL**). I&E objected to a request for admission regarding this System on the grounds that this commercial property is not part of this proceeding. **Exhibit 8**, p. 11. Since the Petition seeks to have the entire Act 127 Registration ruled null and void, and this commercial property is included on the Act 127 Registration, this commercial property has been part of this proceeding from the beginning.

74. At 600 Haverford Road, the gas is transferred from the NGDC to Westover at a meter on the building. Westover burns all of the gas and supplies heat to building occupants.

Exhibits 2 and 9 (CONFIDENTIAL).

75. All of Westover's gas facilities and equipment are located within the boundaries of the property at 600 Haverford Road. **Exhibit 2.** I&E objected to a request for admission regarding this System on the grounds that this commercial property is not part of this proceeding. **Exhibit 8, p. 9.** Since the Petition seeks to have the entire Act 127 Registration ruled null and void, and this commercial property is included on the Act 127 Registration, this commercial property has been part of this proceeding from the beginning.

IV. Argument: The Motion Should be Granted Because Westover's Systems Do Not Satisfy the Definition of a "Master Meter System"

A. Reservation of Rights

76. I&E's Complaint is based exclusively on the argument that Westover is a "pipeline operator" subject to Commission regulation pursuant to Act 127, because Westover owns/operates "master meter systems" as that term is defined in the Federal pipeline safety laws. I&E Reply to New Matter ¶¶ 48 and 50.

77. Westover's Petition and other pleadings, in contrast, offer several arguments why Westover is not subject to Commission regulation pursuant to Act 127. Among other things, Westover has argued that it is not a "pipeline operator" pursuant to Act 127 because its Systems are not "master meter systems" as that term is defined in the Federal pipeline safety laws. Original Petition ¶¶ 27-28, Amended Petition ¶¶ 21-60. In addition, Westover has argued that the General Assembly did not intend that Act 127 would apply to apartment complexes – particularly apartment complexes that take gas from a regulated public utility and resell it to building

occupants. *See Westover's Brief in Support of its Petition for Interlocutory Review and Answer to Material Questions and for Immediate Stay of Proceeding* pp. 8-12.

78. This Motion contends that the Commission should dismiss the Complaint and grant the Petition because the Systems do not satisfy the definition of a “master meter system” in 49 CFR § 191.3. In the event that the ALJ denies this Motion, Westover reserves the right to continue to litigate all issues it has raised in this proceeding.

B. Westover is a “Pipeline Operator” Pursuant to Act 127 Only if it Operates a “Master Meter System” as Defined in the Federal Pipeline Safety Laws

79. Section 501(a) of Act 127, 58 P.S. § 801.501(a), gives the Commission general administrative authority to supervise and regulate Pennsylvania “pipeline operators.”

80. A “pipeline operator” is defined as:

A person that owns or operates equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility *regulated under Federal pipeline safety laws*. The term does not include a public utility or an ultimate consumer who owns a service line on his real property.

58 P.S. § 801.102 (“Definitions”) (emphasis added).

81. I&E alleges that Westover is a “pipeline operator” because Westover owns or operates a “master meter system” as defined by the Federal pipeline safety laws. Complaint ¶¶ 7, 24-26.

82. Act 127 defines the “Federal pipeline safety laws” as:

The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts.

58 P.S. § 801.102 (“Definitions”).

83. The Federal pipeline safety laws define a “master meter system” as:

... a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the

operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents[.]

49 CFR § 191.3 (emphasis added).

C. None of the Systems Involved in this Case Satisfy the Definition of a “Master Meter System” Because Westover Does Not Operate any Equipment or Facilities Located Outside the Definable Area of an Apartment Complex or Commercial Property

84. Westover respectfully submits that none of its Systems satisfy the definition of a “master meter system” because each System is located entirely within the definable area of Westover’s apartment complexes or commercial properties.

85. Westover’s research has found no reported federal or state court decision interpreting the phrase “within, but not limited to, a definable area, such as . . . an apartment complex,” as used in 49 CFR § 191.3.

86. 49 CFR § 191.3 is a regulation of the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (“PHMSA”).

87. PHMSA issues interpretation letters clarifying its regulations, but those letters are not intended to establish precedent; they

. . . reflect the agency’s current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations are not generally applicable, do not create legally-enforceable rights or obligations, and are provided to help the specific requestor understand how to comply with the regulation.

Exhibit 10 pp. 1 and 2.

88. Westover’s research has found no PHMSA letter interpreting the phrase “within, but not limited to, a definable area, such as . . . an apartment complex.”

89. Even if the PHMSA had issued an interpretation of that phrase, the Commission is not required to follow it. Under both federal and Pennsylvania law, an agency’s interpretation of

a statute or regulation is entitled to great weight, but it is not entitled to deference if it is plainly erroneous or inconsistent with the applicable statute or regulation. *Auer v. Robbins*, 519 U.S. 452 (1997); *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410 (1945); *Dauphin County Industrial Development Auth. v. Pa. Pub. Util. Comm'n*, 123 A.3d 1124 (Pa. Cmwlth. 2015).

90. Under both federal law, it would be plainly erroneous for PHMSA to interpret Section 191.3 in a way that construes the phrase “within, but not limited to, a definable area, such as . . . an apartment complex” as mere surplusage, rather than giving effect to that phrase. *Marx v. General Revenue Corp.*, 568 U.S. 371, 385 (“[T]he canon against surplusage ‘assists only where a competing interpretation gives effect to every clause and word of a statute.’”). Similarly, under Pennsylvania law, it would be plainly erroneous for the Commission to fail to give effect to the phrase “within, but not limited to, a definable area, such as . . . an apartment complex.” *P.S.P., Bureau of Liquor Control Enforcement v. Benny Enterprises, Inc.*, 669 A.2d 1018, 1021 (Pa. Cmwlth. 1996), *appeal denied*, 681 A.2d 1344 (Pa. 1996) (the rules of statutory construction apply to regulations) and *Habecker v. Nationwide Ins. Co.*, 445 A.2d 1222, 1226 (Pa. Super. 1982) (statutes are to be construed to give effect to every word).

91. Under both federal and Pennsylvania law, non-technical terms, such as “within” and “limited,” should be given their ordinary meanings. *Richards v. United States*, 369 U.S. 1, 9 (1962) (where a term is not defined, courts “start with the assumption that the legislative purpose is expressed by the ordinary meaning of the words used.”); 1 Pa. C.S. § 1903(a).

92. According to the Merriam-Webster Online Dictionary, “within” has multiple meanings, including “being inside: enclosed.”⁶

⁶ <https://www.merriam-webster.com/dictionary/within>

93. The Merriam-Webster Online Dictionary also states that “limited” has multiple definitions, including “confined within limits: restricted.”⁷

94. Westover respectfully submits that the phrase “within, but not limited to, a definable area, such as . . . an apartment complex” means that a gas system must be partly within, and partly outside the apartment complex in order to be a “master meter system” (*i.e.*, the gas system must be within, but not restricted to, the apartment complex).

95. This interpretation of the definition of a “master meter system” is consistent with the advice that the Commission has provided to the regulated community for almost ten years. Attached as **Exhibit 11** is a Commission document entitled “Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions,” dated February, 2014.⁸ In that document, the Commission stated that Act 127 does not apply to “master meter systems serving their own property”⁹ (*i.e.*, systems that are located within and restricted to the owner/operator’s apartment complex), but Act 127 does apply to “master meter systems that provide service to property owned by third parties”¹⁰ (*i.e.*, systems that are within, but are not restricted to the owner/operator’s apartment complex).¹¹

96. Westover operates Systems that are within and restricted to the applicable apartment complex or commercial property. None of the Systems operated by Westover are

⁷ <https://www.merriam-webster.com/dictionary/limited> <https://www.merriam-webster.com/dictionary/limited>

⁸ This document can be found at: https://www.puc.pa.gov/NaturalGas/pdf/Act127/12_Act127_FAQs.pdf

⁹ Answer to Question 7 “What is Not Considered a Pipeline Operator Under Act 127?”

¹⁰ Answer to Question 6 “What is Considered a Pipeline Operator Under Act 127?”

¹¹ While not directly on-point because different statutes are involved, it is nevertheless worth noting that Westover’s interpretation of 49 CFR § 191.3 is consistent with well-established Pennsylvania law holding that an entity providing public utility service is only subject to Commission jurisdiction if it provides service that is open to the use and service of all members of the public who may require it. *See, e.g., Drexelbrook Assoc. v. Pa. Pub. Util. Comm’n*, 418 Pa. 430, 434-435, 212 A.2d 237, 239 (1965); *Waltman v. Pa. Pub. Util. Comm’n*, 596 A.2d 1221, 1224 (Pa. Cmwlth. 1991), *aff’d per curiam*, 533 Pa. 304, 621 A.2d 994 (1991). Westover does not provide gas to the public; it only provides gas within the boundaries of the apartment complexes that it operates.

located partly inside and partly outside the apartment complex or commercial property. Therefore, none of the Systems satisfy the definition of a “master meter system.”

97. Public safety will not be compromised by construing 49 CFR § 191.3 according to its clear and unambiguous terms. In Pennsylvania, the Uniform Construction Code applies to the construction, alteration, repair, movement, equipment, removal, demolition, location, maintenance, occupancy or change of occupancy of every building on or after April 9, 2004. 34 Pa. Code § 403.1. The Uniform Construction Code incorporates by reference the International Fuel Gas Code of 2018, 34 Pa. Code § 403.21(a)(4), which addresses the design and installation of fuel gas piping systems. The Uniform Construction Code is enforced by municipalities or the Pennsylvania Department of Labor and Industry – not the Commission.¹² Finding that Federal gas pipeline safety laws apply within apartment buildings could subject Westover to two inconsistent regulatory schemes.

98. Additionally, owners and operators of apartment complexes have an incentive to properly build, maintain, and operate gas facilities at apartment complexes in order to avoid tort liability for injury to persons or property resulting from the gas system.

99. The Commission is an independent commission created by the General Assembly, and has only the powers given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977).

100. Since Westover’s Systems are not “master meter systems” regulated under Federal pipeline safety laws, Westover is not a “pipeline operator” subject to Commission jurisdiction pursuant to Act 127.

¹² For a brief description of the Uniform Construction Code, see <https://www.dli.pa.gov/ucc/Pages/default.aspx>.

101. The undisputed facts set forth in Section III demonstrate that Westover is entitled to judgment as a matter of law. The Commission cannot exceed the powers given to it by the General Assembly. *Feingold, supra*. Even if the Commission believes that there may be a gap in gas pipeline safety oversight at apartment complexes within the Commonwealth, jurisdiction is a public policy decision (with broad-reaching implications) that must be addressed by the General Assembly, not the Commission. The Commission cannot create its own jurisdiction; it should exercise self-restraint and recognize its own limitations.

V. CONCLUSION AND REQUEST FOR RELIEF

Westover respectfully submits that there is no dispute of material fact. All of the Systems operated by Westover and mentioned in the Complaint, the Petition and/or the Answer and New Matter, are located entirely within the apartment complexes or commercial properties operated by Westover. As a result, none of these Systems satisfy the definition of a “master meter system” in 49 CFR § 191.3. Therefore, the Systems are not regulated pursuant to the Federal pipeline safety laws, and are not regulated by the Commission pursuant to Act 127.

WHEREFORE, for the foregoing reasons, Westover respectfully requests that the ALJ:

1. Grant this Motion for Summary Judgment;
2. Dismiss I&E’s Complaint;
3. Grant Westover’s Petition for Declaratory Order (as amended) and declare that:
 - a. None of Westover’s Systems are subject to Act 127; and
 - b. Westover’s registration at Docket No. A-2021-3028141 is null and void.

[Signature appears on next page.]

Respectfully submitted,



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*Counsel for Westover Property Management
Company, L.P. d/b/a/ Westover Companies*

Date: February 10, 2023

Exhibit 1
Act 127 Registration
(February 22, 2023)



February 22, 2022

Via Electronic Submission Only

PAPUC
400 North Street
Harrisburg PA 17120

Regarding: Docket A-2021-3028141

To whom it may concern.

The attached transmission and filing fee are paid under protest based on the on-going proceedings at Docket Nos. P- 2021-3030002 and C-2022-3030251, in which we contend that we do not need to register pursuant to Act 127.

Sincerely,

Alexander Stefanelli
CFO

CC: Zambito, David DZambito@cozen.com
Nase, Jonathan JNase@cozen.com
Peter Quercetti



Act 127
Pennsylvania Pipeline Operator Annual Registration Form

Please submit completed form by March 31

Registration for Previous Calendar Year Ending: December 31, 2021

Docket Number: A-2021-3028141

If you need help getting your docket number,

- Go to www.puc.pa.gov > Filing & Resources > Issues, Laws & Regulations > Act 127 (Pipeline Act).
- On the Act 127 page you will see a link on the lower section of the page under Pipeline Operators Registry.
- Click on the link to "View Current List of Registered Pipeline Operators."
- Click on the utility code next to your name; find the Docket Number (A-2012-xxxxxx) under the Docketed Cases.

1. Registrant (Full name of pipeline operator): The Westover Companies

Comments: If applicable, explain any changes to your company name or legal status (acquisition, merger, etc.) in the past calendar year.

2. Types of Pipelines and/or Facilities.

Please note that natural gas public utilities are not required to file this form.

Pipelines and/or facilities covered by this form are associated with the following types of facilities and transport the following types of commodities: (select all that apply)

Gas Distribution

Natural Gas Propane Gas

Gas Transmission

Natural Gas
Propane Gas
Other Gas Define:

Gas Gathering

Hazardous Liquid
Other Define:

3. Main Mailing Address:

Provide the address to which the Commission will serve all correspondence relating to this registration.

Street Address/P. O. Box: 550 AMERICAN AVE., SUITE 1
City, State, Zip Code: KING OF PRUSSIA, PA 19406

4. Physical Address:

Provide the address of your primary Pennsylvania facility. This address is needed by the Commission to perform inspections and onsite visits. Do not provide a post office box number.

Street Address: see attached Exhibit D
City, State, Zip Code:

5. US DOT Operator ID Number:

Provide the number assigned to you by the United States Department of Transportation, Pipeline Hazardous and Materials Safety Administration (PHMSA).

40293

6. PA L&I Propane Registration Number:

Provide your propane registration number with the Pennsylvania Department of Labor and Industry (if applicable). If you do not have a number, please enter "N/A".

7. Regulatory Contact Information: <i>Complete in full with contact information of the person in your company the Commission can contact for questions and other matters pertaining to your registration and operations.</i>	
Name:	ALEXANDER STEFANELLI
Street Address:	550 AMERICAN AVE., SUITE 1
City, State, Zip Code:	KING OF PRUSSIA, PA 19406
Email Address:	cfo@westovercompanies.com
Telephone Number:	(610) 763-2864
8. Assessment Contact Information: <i>Complete in full with contact information of the person in your company who is responsible for receiving the Commission's assessment (billing) invoices and paying the assessment under Act 127.</i>	
Name:	ALEXANDER STEFANELLI
Street Address:	550 AMERICAN AVE., SUITE 1
City, State, Zip Code:	KING OF PRUSSIA, PA 19406
Email Address:	cfo@westovercompanies.com
Telephone Number:	(610) 763-2864
9. Federal EIN Number (if applicable):	
10. Pipeline Emergency (PEMA) Contact Information: <i>Complete in full with contact information of the person in your company who the Commission can call in an emergency situation. This information is critical to the Commission's interactions with the Pennsylvania Emergency Management Authority (PEMA).</i>	
Name:	PETER QUERCETTI
Street Address:	550 AMERICAN AVE., SUITE 1
City, State, Zip Code:	KING OF PRUSSIA, PA 19406
Email Address:	pquercetti@westovercompanies.com
Telephone Number:	(302) 388-3569
11. Attorney (if applicable): <i>Complete this section only if an attorney is filing this registration form on your company's behalf.</i>	
Name:	
Street Address:	
City, State, Zip Code:	
Email Address:	
Telephone Number:	
12. Operational Information:	
Comments: Report any newly installed pipeline, and explain any additions, deletions or variations since your previous year's registration.	

- Complete Attachments “A” and “B”. For each Pennsylvania gas or hazardous liquids pipeline, provide the in-state mileage in operation as of December 31 of the prior year, by class and by county. Mileage should be reported for each individual pipe. Multiple pipelines in one trench are considered individual pipes for reporting purposes. If you have no miles to report on these attachments, check the appropriate block at the top of the form(s).
- Complete Attachment “C” by providing the country of manufacture and mileage data for all tubular steel products installed in the prior calendar year in Pennsylvania for the exploration, gathering or transmission of natural gas or hazardous liquids. If you have no data to report on this attachment, check the appropriate block at the top of the form.

13. Filing Fee:

The filing fee for this Annual Registration Form is \$250, payable to the “Commonwealth of Pennsylvania.”

The filing fee can either be mailed or electronically paid when eFiling your form with the Commission’s eFiling system.

NOTE: If you are a Propane Distributor registered with the PA L&I or a Borough, you are exempt from paying this filing fee.

Fee Exemptions (please indicate if either exemption applies):

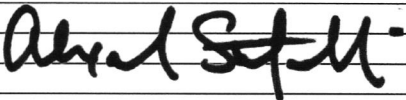
Propane Distributor registered with PA L&I

Borough

14. Verification:

The person responsible (corporate officer or attorney) for filing your Annual Registration Form must affix his or her signature and verify that all information provided on the form is true to the best of his or her knowledge, information and belief. NOTE: Registration Forms that are not verified will not be accepted for filing.

I hereby state that the information in this application is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Name:	Signature:
Alexander Stefanelli	
Title:	Date:
CFO	2/22/2022

15. Registration:

eFiling:

Registration Forms may be eFiled with the PUC. If eFiling your renewal form, go to <http://www.puc.pa.gov> and click on the eFiling link on the bottom of the page under Issues, News & Reports. Please choose “Existing Case” as the type of filing and enter your docket number where indicated.

By mail:

Send original, signed copy of registration form along with attachments and filing fee (if applicable) to:

Secretary, PA Public Utility Commission
Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Reminders:

- It is the responsibility of registrants to keep the Commission notified of any changes to your contact information by providing notice, in writing, to the Commission’s Secretary at the above address.
- Incomplete registration forms or those missing any attachments are unacceptable for filing and will be delayed for processing until the required information is sent to the Commission’s Secretary’s Bureau. If you require assistance or have questions when completing this form, call 717-772-7777.
- Registrations are public records. Accordingly, DO NOT place social security numbers, credit card numbers, bank account numbers or other confidential information on the registration form.

*****PLEASE KEEP A COPY OF YOUR COMPLETED REGISTRATION FORM FOR YOUR RECORDS*****

Additional Comments: Use this section to add any additional information:

Attachment A

Hazardous Liquids Lines
Calendar Year Ending: December 31, 2021
Pipeline Operator: The Westover Companies

Please check here if you have no reportable Hazardous Liquids Lines

Please report mileage to the nearest 1/10th of a mile.

HCA = High Consequence Area

County	Intrastate		Interstate		Total
	Non-HCA	HCA	Non-HCA	HCA	
Adams					0.0
Allegheny					0.0
Armstrong					0.0
Beaver					0.0
Bedford					0.0
Berks					0.0
Blair					0.0
Bradford					0.0
Bucks					0.0
Butler					0.0
Cambria					0.0
Cameron					0.0
Carbon					0.0
Centre					0.0
Chester					0.0
Clarion					0.0
Clearfield					0.0
Clinton					0.0
Columbia					0.0
Crawford					0.0
Cumberland					0.0
Dauphin					0.0
Delaware					0.0
Elk					0.0
Erie					0.0
Fayette					0.0
Forest					0.0
Franklin					0.0
Fulton					0.0
Greene					0.0
Huntingdon					0.0
Indiana					0.0
Jefferson					0.0
Juniata					0.0
Lackawanna					0.0
Lancaster					0.0
Lawrence					0.0
Lebanon					0.0
Lehigh					0.0
Luzerne					0.0
Lycoming					0.0
McKean					0.0
Mercer					0.0
Mifflin					0.0
Monroe					0.0
Montgomery					0.0

Montour					0.0
Northampton					0.0
Northumberland					0.0
Perry					0.0
Philadelphia					0.0
Pike					0.0
Potter					0.0
Schuylkill					0.0
Snyder					0.0
Somerset					0.0
Sullivan					0.0
Susquehanna					0.0
Tioga					0.0
Union					0.0
Venango					0.0
Warren					0.0
Washington					0.0
Wayne					0.0
Westmoreland					0.0
Wyoming					0.0
York					0.0
Total	0.0	0.0	0.0	0.0	0.0

Attachment B

Mileage

Calendar Year Ending: December 31, 2021
 Pipeline Operator: The Westover Companies

Please check here if you have no miles to report

Act 127 mileage reporting for this form should not include any pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

Please report mileage to the nearest 1/10th of a mile.

County	Number of Farm Taps	Class 1 Gathering (Conventional)	Class 1 Gathering (Unconventional)	Class 1 Transmission & Distribution	Gathering, Transmission & Distribution			Total Class 1 T&D + Class 2+3+4 G,T&D
					Class 2 Gathering Transmission & Distribution	Class 3 Gathering Transmission & Distribution	Class 4 Gathering Transmission & Distribution	
Adams								0.0
Allegheny								0.0
Armstrong								0.0
Beaver								0.0
Bedford								0.0
Berks						0.4		0.4
Blair								0.0
Bradford								0.0
Bucks						0.4		0.4
Butler								0.0
Cambria								0.0
Cameron								0.0
Carbon								0.0
Centre								0.0
Chester						0.4		0.4
Clarion								0.0
Clearfield								0.0
Clinton								0.0
Columbia								0.0
Crawford								0.0
Cumberland						0.4		0.4
Dauphin								0.0
Delaware						0.9		0.9
Elk								0.0
Erie								0.0
Fayette								0.0
Forest								0.0
Franklin								0.0
Fulton								0.0
Greene								0.0
Huntingdon								0.0
Indiana								0.0
Jefferson								0.0
Juniata								0.0
Lackawanna								0.0
Lancaster								0.0
Lawrence								0.0
Lebanon								0.0
Lehigh								0.0
Luzerne								0.0
Lycoming								0.0

McKean								0.0
Mercer								0.0
Mifflin								0.0
Monroe								0.0
Montgomery						1.1		1.1
Montour								0.0
Northampton								0.0
Northumberland								0.0
Perry								0.0
Philadelphia								0.0
Pike								0.0
Potter								0.0
Schuylkill								0.0
Snyder								0.0
Somerset								0.0
Sullivan								0.0
Susquehanna								0.0
Tioga								0.0
Union								0.0
Venango								0.0
Warren								0.0
Washington								0.0
Wayne								0.0
Westmoreland								0.0
Wyoming								0.0
York								0.0
Total	0.0	0.0	0.0	0.0	0.0	3.6	0.0	3.6

Primary	Heating Type	PUC	Address	City State Zip	County	Units	Zip
<u>Carlisle Park</u>	Gas	Y	525 Third Street	Carlisle, PA 17013	Cumberland County	206	17013
<u>Gladstone Towers</u>	Gas	Y	223 Scottdale Road	Lansdowne, PA 19050	Delaware County	121	19050
<u>Hillcrest</u>	Gas	Y	785 W. Providence Road	Lansdowne, PA 19050	Delaware County	84	19050
<u>Lansdowne Towers</u>	Gas	Y	772 E. Providence Road	Alden, PA 19018	Delaware County	231	19018
<u>Main Line Berwyn</u>	Gas	Y	750 Old Lancaster Road	Berwyn, PA 19312	Chester Count	180	19312
<u>Mill Creek</u>	Gas	Y	255 E. Lincoln Highway	Penndel, PA 19407	Bucks County	174	19407
<u>Norriton East</u>	Gas	Y	2620 Dekalb Pike	East Norriton, PA 19401	Montgomery County	68	19401
<u>Oak Forest</u>	Gas	Y	2220 Alsace Road	Reading, PA 19604	Berks County	143	19604
<u>Park Court</u>	Gas	Y	26 S. Water Street	Womelsdorf, PA 19567	Berks County	66	19567
<u>Valley Stream</u>	Gas	Y	2100 N. Line Street	Lansdale, PA 19446	Montgomery County	242	19446
<u>Willow Run</u>	Gas	Y	3505 Moreland Road, # E-521	Willow Grove, PA 19090	Montgomery County	172	19090

1688

Eth D

Primary

Property Type

Natural Gas

Address

City State Zip

SQ FT

Bryn Mawr Medical Building

Commercial

600 & 931 Haverford Road,

Haverford, PA 19041

82096

EXH D

Exhibit 2
Affidavit of Peter Quercetti
(February 2, 2023)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	
d/b/a Westover Companies	:	

AFFIDAVIT OF PETER QUERCETTI

On this, the 2nd day of February, 2023, before the undersigned Notary Public in and for the Commonwealth of Pennsylvania and County of Montgomery personally appeared Peter Quercetti who, being duly sworn according to law, deposes and says that:

(1) I am the Vice President of Operations of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”).

(2) Westover is a property management company that operates (but does not own) the natural gas systems at the apartment complexes and commercial properties involved in this case (the “Systems”).

(3) Westover’s Systems only provide gas service to occupants of buildings on the properties operated by Westover. In most cases, the building occupants are tenants. At some properties, however, the property owner has a leasing office on site. Consequently, this Affidavit will use the term “building occupants” rather than “tenants” to describe the persons occupying the properties.

(4) **Park Court.** At this apartment complex, gas is transferred from the natural gas distribution company (“NGDC”) to Westover at meters at each building in the apartment complex.

Westover pipes some of the gas to building occupants. All gas facilities operated by Westover are located within the apartment complex.

(5) **Oak Forest.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter located in the complex. Westover pipes the gas from that meter to the buildings in the complex, and ultimately pipes some of the gas to building occupants. All gas facilities operated by Westover are located within the apartment complex.

(6) **Woodland Plaza.** At this apartment complex, gas is transferred from the NGDC to Westover at meters located on apartment buildings. Westover pipes some of the gas to building occupants. All gas facilities operated by Westover are located within the apartment complex.

(7) **Mill Creek Village.** Westover operates two Mill Creek Village apartment complexes: Mill Creek Village I and Mill Creek Village II.

(a) At Mill Creek Village I, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes the gas to buildings in the complex. At each building, Westover pipes some of the gas to building occupants. All gas facilities operated by Westover at Mill Creek Village I are located in the apartment complex.

(b) At Mill Creek Village II, gas is transferred from the NGDC to Westover at a meter on each building. Westover pipes some of the gas to units in the building. All gas facilities operated by Westover at Mill Creek Village II are located in the apartment complex.

(8) **Country Manor.** At this apartment complex, gas is transferred from the NGDC to Westover at meters on the apartment buildings. Westover pipes some of the gas to building occupants. All gas facilities operated by Westover are located in the apartment complex.

(9) **Fox Run.** At this apartment complex, gas is transferred from the NGDC to Westover at meters on the apartment buildings. Westover pipes some of the gas to building occupants. All gas facilities operated by Westover are located in the apartment complex.

(10) **Main Line Berwyn.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes the gas to buildings in the complex, and ultimately to building occupants. All gas facilities operated by Westover are located within the apartment complex.

(11) **Black Hawk.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter on each building. Westover burns all of the gas and supplies heat and hot water to building occupants. All gas facilities operated by Westover are located within the apartment complex.

(12) **Paoli Place.** Paoli Place is comprised of three apartment complexes: Paoli North, located at 27 East Central Avenue, Pennsylvania (comprised of buildings A-R); the South Valley Townhomes, located at 50 South Valley Road, Paoli, Pennsylvania; and Paoli South, located at 55 and 77 South Valley Road, Paoli, Pennsylvania (comprised of buildings A-H).

(a) With regard to Paoli North, Buildings A-K, gas is transferred from the NGDC to Westover at a meter on the apartment building. Westover transports some of the gas from the meters to building occupants. All of Westover's gas facilities are located within the apartment complex.

(b) With regard to Paoli North, Buildings L-R, gas is transferred from the NGDC to building occupants at meters located at a meter bank on the apartment building. Pipes take the gas from the meter bank to building occupants. All gas facilities downstream of the meter are located within the apartment complex.

(c) With regard to the South Valley Townhomes, gas is transferred from the NGDC to building occupants at meters on each apartment building. All gas facilities downstream of the meter are located in the apartment complex.

(d) With regard to Paoli South, Buildings A-D, gas is transferred from the NGDC to Westover at meters on the apartment buildings. Westover transports some of the gas from the meter to building occupants. All of Westover's gas facilities are located within the apartment complex.

(e) With regard to Paoli South, Buildings E-H, gas is transferred from the NGDC to Westover at a meter located outside Building E. Westover pipes the gas to Buildings E-H and ultimately pipes some of the gas to building occupants. All of Westover's gas facilities at Paoli South, Buildings E-H are located within the apartment complex.

13. **Concord Court.** At this apartment complex, gas is transferred from the NGDC to Westover at meters on each apartment building. Westover burns all of the gas and supplies heat and hot water to building occupants. All of Westover's gas facilities are located in the apartment complex.

14. **Gladstone Towers.** At this apartment complex, gas is transferred from the NGDC to Westover at two meters located outside the building labeled on an Entech Engineering map¹ as Building AB. The meters measure the gas used by the buildings labeled AB and CD (the gas is piped through an underground line to Building CD). At each building, Westover consumes some of the gas and pipes the remainder to building occupants. All gas facilities operated by Westover are located within the apartment complex.

¹ This map was provided to the Bureau of Investigation and Enforcement in a discovery response dated May 2, 2022.

15. **Hillcrest.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover then pipes the gas to each building, and ultimately to building occupants. All gas facilities operated by Westover are located within the apartment complex.

16. **Lansdowne Towers.** At this complex, gas is transferred from the NGDC to Westover at a meter inside the complex. Westover pipes the gas to each building in the complex and ultimately pipes some of the gas to building occupants. All gas facilities operated by Westover are located within the apartment complex.

17. **Lansdale Village.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter outside one building in the complex. Westover burns all of the gas and supplies heat and hot water to all units in the complex. All gas facilities operated by Westover are located within the apartment complex.

18. **Norriton East.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter on the building. Westover pipes some of the gas to building occupants. All gas facilities operated by Westover are located within the apartment complex.

19. **Valley Stream.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes gas to each building and then pipes some of the gas to building occupants. All gas facilities operated by Westover are located within the apartment complex.

20. **Willow Run.** At this apartment complex, gas is transferred from the NGDC to building occupants at meters on the buildings. All gas facilities downstream of the NGDC meter are located within the apartment complex.

21. **Carlisle Park.** At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes gas to each building, and then to each building occupant. All gas facilities operated by Westover are located within the apartment complex.

22. **Bryn Mawr Medical Building.** Westover's Act 127 Registration, Docket No. A-2021-3028141, includes the "Bryn Mawr Medical Building" and lists two addresses for this building: 600 Haverford Road in Haverford and 931 Haverford Road in Haverford. These are two separate commercial properties. They are not located on adjacent parcels; they are located on opposite sides of the road several blocks from each other. They have two separate gas Systems.

(a) At 931 Haverford Road, the gas is transferred from the NGDC to Westover at a meter on the building. Westover burns all of the gas and supplies heat and hot water to building occupants. All of Westover's gas facilities and equipment are located within the boundaries of the property at 931 Haverford Road.

(b) At 600 Haverford Road, the gas is transferred from the NGDC to Westover at a meter on the building. Westover burns all of the gas and supplies heat to building occupants. All of Westover's gas facilities and equipment are located within the boundaries of the property at 600 Haverford Road.

Peter Quercetti
Peter Quercetti

Subscribed and sworn to before me

This 2 day of February, 2023

Kelly L. Daniels
Notary Public

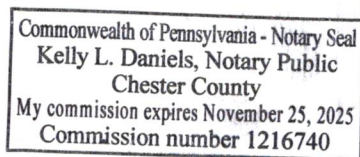


Exhibit 4
I&E Response to
Westover Requests for Admission - Set I
(Dec. 27, 2022)



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 27, 2022

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Response to Westover Requests for Admission - Set I

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Responses to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/ac
Enclosures

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**RESPONSES OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO THE REQUESTS FOR ADMISSION - SET I OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to 52 Pa. Code § 5.350, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Responses to the Requests for Admission- Set I of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

1. With regard to the Willow Run apartments:
 - a. The natural gas distribution company delivers gas directly to a meter for each apartment.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

1. **With regard to the Willow Run apartments:**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - d. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

2. With regard to the Woodland Plaza apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. None of Westover's gas facilities are located underground.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes some of the gas purchased from the natural gas distribution company.
 - e. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - f. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - g. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.
 - h. All of the leaks found during I&E's inspection of Woodland Plaza on November 15, 2022 were on the natural gas distribution company's side of the gas meter.

Response:

2. **With regard to the Woodland Plaza apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit.**
 - f. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor**

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus the maps are not sufficient to enable I&E to admit or deny.

- g. Admit.**
- h. I&E objects to this request because the statement is not relevant. Pursuant to Section 5.350, “A party may serve upon another party a written request for the admission of the truth of any matters, *within the scope of §§ 5.321—5.324 (relating to general discovery).*” 52 Pa. Code § 5.350 (emphasis added). Under Section 5.321, a party cannot obtain discovery unless it is relevant to the subject matter involved in the pending action. 52 Pa. Code § 5.321(c). The location of the leaks is not relevant to the subject matter of this pending action, i.e., (1) whether the Commission has jurisdiction over master meter systems pursuant the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 et seq. (“Act 127”) and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015, and (2) whether Westover is a pipeline operator, as defined in 58 P.S. § 801.102, in that it operates master meter systems, as defined in 49 CFR § 191.3, at its apartment complexes and whether Westover is compliant with Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015.**

3. With regard to the Park Court apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

3. **With regard to the Park Court apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit in part, deny in part. Westover resells gas for use in its leasing office, the individuals who use the leasing office are not tenants.**

4. With regard to the Country Manor apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Response:

4. **With regard to the Country Manor apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.**
 - f. **Admit.**

5. With regard to the Mill Creek Village I apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

5. **With regard to the Mill Creek Village I apartments:**
 - a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit in part, deny in part. Westover resells gas for use in its office building, the individuals who use the office building are not tenants.**

6. With regard to the Mill Creek Village II apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Response:

6. **With regard to the Mill Creek Village II apartments:**
 - a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit in part, deny in part. Westover resells gas for use in its office building, the individuals who use the office building are not tenants.**
 - f. **Admit.**

7. With regard to the Lansdale Village apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover consumes all of the gas purchased from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

7. **With regard to the Lansdale Village apartments:**
 - a. **Admit.**
 - b. **Deny.**
 - c. **Deny. Westover charges tenants for gas through an allocation based upon square footage of the unit and the number of persons residing in the unit.**
 - d. **Deny.**

8. With regard to the Black Hawk apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover consumes all of the gas purchased from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

8. **With regard to the Black Hawk apartments:**
 - a. **Admit.**
 - b. **Deny.**
 - c. **Deny. Westover resells gas to its tenants who pay for gas through rent.**
 - d. **Deny.**

9. With regard to the Paoli Place apartments (North Buildings A-K):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Response:

9. **With regard to the Paoli Place apartments (North Buildings A-K):**
 - a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E**

to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

f. Admit.

10. With regard to the Paoli Place apartments (North Buildings L-R and South Valley Townhomes):
- a. The natural gas distribution company delivers gas to a meter on the building and each apartment has a submeter to calculate the gas bill.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas to residents.
 - e. Tenants pay the NGDC for the gas used.

Response:

10. **With regard to the Paoli Place apartments (North Buildings L-R and South Valley Townhomes):**
- a. **Admit in part, deny in part. Each apartment has a meter, not a submeter.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Deny. Westover owns the fuel lines located between the meter outlet and the appliance(s).**
 - e. **Admit.**

11. With regard to Paoli Place apartments (South):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Response:

11. **With regard to Paoli Place apartments (South):**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**

12. With regard to the Concord Court apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover consumes all of the gas purchased from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

12. With regard to the Concord Court apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Deny.**
 - c. **Deny. Westover charges tenants for gas through an allocation based upon square footage of the unit and the number of persons residing in the unit.**
 - d. **Deny. Any fuel line past the PECO meter is part of Westover's pipeline system.**

13. With regard to the Norriton East apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Response:

13. **With regard to the Norriton East apartments:**
- a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**

14. With regard to the Fox Run apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Response:

14. With regard to the Fox Run apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants**

at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.

- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover's gas facilities are located entirely within a building or buildings, and thus, the maps are insufficient to enable I&E to admit or deny.**

15. With regard to the Oak Forest apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

15. With regard to the Oak Forest apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

16. With regard to the Gladstone Towers apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

16. With regard to the Gladstone Towers apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

17. With regard to the Main Line Berwyn apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

17. With regard to the Main Line Berwyn apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E notes that the map provided by Westover shows a pool on the property, which may or may not use gas, and the map also shows a service meter in the courtyard by the pool.**
 - d. **Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 17(c).**

- e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

18. With regard to the Lansdowne Towers apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

18. With regard to the Lansdowne Towers apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

19. With regard to the Hillcrest apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

19. With regard to the Hillcrest apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E does not possess knowledge related to the existence or non-existence of a leasing office in one of the apartment complex buildings which may or may not use gas.**
 - d. **Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 19(c).**

- e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

20. With regard to the Valley Stream apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

20. With regard to the Valley Stream apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E notes that the map provided by Westover includes a barn, pool, and club house which may or may not use gas.**
 - d. **Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 20(c).**

- e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

21. With regard to the Carlisle Park apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

21. With regard to the Carlisle Park apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E notes that the map provided by Westover includes an office which may or may not use gas.**
 - d. **Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 21(c).**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor**

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Responses of the Bureau of Investigation and Enforcement to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
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*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*



Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
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karost@pa.gov

Dated: December 27, 2022



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
12/27/2022	2449640

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251
Case Description: P-2021-3030002
Transmission Date: 12/27/2022 3:05 PM
Filed On: 12/27/2022 3:05 PM
eFiling Confirmation Number: 2449640

File Name	Document Type	Upload Date
C-2022-3030251 & P-2021-3030002 I&E Response to Westover Requests for Admission - Set I CL&COS.pdf	Certificate of Service	12/27/2022 3:04:23 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

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Exhibit 7
I&E Amended Responses to
Westover Requests for Admission; Set I
(February 8, 2023)



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 8, 2023

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Amended Response to Westover Requests for Admission - Set I

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Amended Responses to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/jfm
Enclosures

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**AMENDED RESPONSES OF THE BUREAU OF
INVESTIGATION AND ENFORCEMENT
TO THE REQUESTS FOR ADMISSION - SET I OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to 52 Pa. Code § 5.332, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Amended Responses to the Requests for Admission- Set I of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

1. With regard to the Willow Run apartments:
 - a. The natural gas distribution company delivers gas directly to a meter for each apartment.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Original Response:

1. **With regard to the Willow Run apartments:**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - d. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

Amended Response:

- 1. With regard to the Willow Run apartments:**
 - a. Admit.**
 - b. Denied. By way of further response, an office is located at Willow Run Apartments which may or may not use gas.**
 - c. Admit.**
 - d. Admit.**

2. With regard to the Woodland Plaza apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. None of Westover's gas facilities are located underground.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes some of the gas purchased from the natural gas distribution company.
 - e. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - f. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - g. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.
 - h. All of the leaks found during I&E's inspection of Woodland Plaza on November 15, 2022 were on the natural gas distribution company's side of the gas meter.

Original Response:

2. **With regard to the Woodland Plaza apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit.**
 - f. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor**

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus the maps are not sufficient to enable I&E to admit or deny.

- g. Admit.**
- h. I&E objects to this request because the statement is not relevant. Pursuant to Section 5.350, “A party may serve upon another party a written request for the admission of the truth of any matters, *within the scope of §§ 5.321—5.324 (relating to general discovery).*” 52 Pa. Code § 5.350 (emphasis added). Under Section 5.321, a party cannot obtain discovery unless it is relevant to the subject matter involved in the pending action. 52 Pa. Code § 5.321(c). The location of the leaks is not relevant to the subject matter of this pending action, i.e., (1) whether the Commission has jurisdiction over master meter systems pursuant the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 et seq. (“Act 127”) and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015, and (2) whether Westover is a pipeline operator, as defined in 58 P.S. § 801.102, in that it operates master meter systems, as defined in 49 CFR § 191.3, at its apartment complexes and whether Westover is compliant with Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015.**

Amended Response:

2. With regard to the Woodland Plaza apartments:

- a. Admit.**

- b. Admit.
- c. Admit.
- d. Admit.
- e. Admit.
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus the maps are not sufficient to enable I&E to admit or deny.
- g. **Denied. The gas piping past the first flange after the outlet side of the meter, which is outside of the building, is part of Westover's gas facilities.**
- h. I&E objects to this request because the statement is not relevant. Pursuant to Section 5.350, "A party may serve upon another party a written request for the admission of the truth of any matters, *within the scope of §§ 5.321—5.324 (relating to general discovery).*" 52 Pa. Code § 5.350 (emphasis added). Under Section 5.321, a party cannot obtain discovery unless it is relevant to the subject matter involved in the pending action. 52 Pa. Code § 5.321(c). The location of the leaks is not relevant to the subject matter of this pending action, i.e., (1) whether the Commission has jurisdiction over master meter systems pursuant the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 et seq. ("Act 127") and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015, and (2) whether Westover is a pipeline operator, as defined in 58 P.S. § 801.102, in that it operates master

meter systems, as defined in 49 CFR § 191.3, at its apartment complexes and whether Westover is compliant with Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015.

4. With regard to the Country Manor apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Original Response:

4. **With regard to the Country Manor apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.**
 - f. **Admit.**

Amended Response:

4. **With regard to the Country Manor apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.**
 - f. **Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

9. With regard to the Paoli Place apartments (North Buildings A-K):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Original Response:

9. With regard to the Paoli Place apartments (North Buildings A-K):
 - a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E**

to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

f. Admit.

Amended Response:

9. With regard to the Paoli Place apartments (North Buildings A-K):

a. To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.

b. Admit.

c. Admit.

d. Admit.

e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

f. **Admit in part, Denied in part. The sub-meters are located outside the main building but inside a mechanical area accessible from the back patio/porch area.**

11. With regard to Paoli Place apartments (South):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Original Response:

11. **With regard to Paoli Place apartments (South):**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

Amended Response:

11. With regard to Paoli Place apartments (South), which I&E believes is located at 55 and 77 South Valley Street:

- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
- b. **Admit.**
- c. **Admit.**
- d. **Admit.**

- e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.**
- f. **Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

13. With regard to the Norriton East apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Original Response:

13. **With regard to the Norriton East apartments:**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

Amended Response:

13. With regard to the Norriton East apartments:

- a. To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.
- b. Admit.
- c. Admit.
- d. Admit.
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

- f. Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

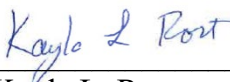
Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Amended Responses of the Bureau of Investigation and Enforcement to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*



Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

Dated: February 8, 2023



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
 Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
2/8/2023	2456285

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251

Case Description:

Transmission Date: 2/8/2023 3:05 PM

Filed On: 2/8/2023 3:05 PM

eFiling Confirmation Number: 2456285

File Name	Document Type	Upload Date
C-2022-3030251 (Westover) I&E Amnd Resp to Westover Req for Admission - Set I CL&COS.pdf	Certificate of Service	2/8/2023 3:04:53 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

Exhibit 8
I&E Responses to
Westover Requests for Admission - Set II;
Docket No. C-2022-3030251
(February 8, 2023)



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 8, 2023

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Response to Westover Requests for Admission - Set II

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Responses to the Requests for Admission - Set II of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/jfm
Enclosures

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**RESPONSES OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO THE REQUESTS FOR ADMISSION - SET II OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to 52 Pa. Code § 5.350, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Responses to the Requests for Admission- Set II of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

1. With regard to the Willow Run apartments:
 - a. The natural gas distribution company delivers gas directly to a meter for each apartment.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.
 - e. All of Westover's gas facilities are located within the apartment complex.

Response:

With regard to the Willow Run apartments:

- a. **Admit.**
- b. **Denied. By way of further response, an office is located at Willow Run Apartments which may or may not use gas.**
- c. **Admit.**
- d. **Admit.**
- e. **Admit.**

2. With regard to the Paoli Place apartments North (Buildings L-R): All of Westover's gas facilities are located within the apartment complex.

Response:

To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.

3. With respect to Paoli Place, South Valley Townhomes: All of Westover's gas facilities are located within the apartment complex.

Response:

To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.

4. With regard to the Paoli Place apartments South (Buildings A-D):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. All of Westover's gas facilities are located within a building or buildings.

Response:

With regard to the Paoli Place apartments South (Buildings A-D), which I&E believes is located at 55 and 77 South Valley Street:

- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
- b. **Admit.**
- c. **Admit.**
- d. **Admit.**
- e. **Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

5. With regard to Paoli Place apartments South (Buildings E-H):
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.

Response:

With regard to the Paoli Place apartments South (Buildings E-H) which I&E believes is located at 55 and 77 South Valley Street:

- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
- b. **Admit.**
- c. **Admit.**
- d. **Admit.**

6. With regard to the Norriton East apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. All of Westover's gas facilities are located within a building or buildings.

Response:

With regard to the Norriton East apartments:

- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
- b. **Admit.**
- c. **Admit.**
- d. **Admit.**
- e. **Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

7. With regard to the Bryn Mawr Medical Building at 600 Haverford Avenue, Haverford, Pennsylvania:
- a. All of Westover's gas facilities are located within the boundaries of the property at 600 Haverford Avenue.
 - b. All of Westover's gas facilities are located within the building at 600 Haverford Avenue.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes all of the gas purchased from the natural gas distribution company.
 - e. Westover does not distribute gas to any building occupants.
 - f. None of Westover's facilities are located underground.

Response:

I&E objects to this request because it exceeds the scope of permissible discovery in Commission proceedings. Section 5.321(c) of the Commission's regulations permits a party to:

obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c).

Information related to I&E's informal investigations of master meter systems at apartment complexes not identified in the Complaint or Westover's Answer and

Amended Petition are protected from disclosure by the attorney-client and deliberative process privileges. The attorney-client privilege extends to any referral from the I&E Safety Division to the I&E Enforcement Division, *i.e.*, the prosecuting attorneys, for professional legal consultation and evaluation of matters pertaining to master meter systems that were investigated by the I&E Safety Division as it relates to their enforcement or potential enforcement. The deliberative process privilege also protects these documents from disclosure as they contain confidential deliberations of law and reflect opinions, recommendations or advice.

Moreover, Deputy Chief Administrative Law Judge Christopher Pell found that Interrogatories not related to the specific apartment complexes identified in I&E's Complaint and addressed by Westover in its Answer and Amended Petition are beyond the scope of this proceeding. *See* Interim Order Addressing Motions to Compel Filed by Westover Property Management Company, L.P. and the Bureau of Investigation and Enforcement, dated October 25, 2022. Since requests for admissions are subject to the same limitations of interrogatories, namely within the scope of 52 Pa. Code §§ 5.321-5.324, and Bryn Mawr Medical Building is not identified in those pleadings, this request is inappropriate and in blatant disregard for Deputy Chief ALJ Pell's Interim Order.

8. With regard to the Bryn Mawr Medical Building at 931 Haverford Avenue, Haverford, Pennsylvania:
- a. All of Westover's gas facilities are located within the boundaries of the property at 931 Haverford Avenue.
 - b. All of Westover's gas facilities are located within the building at 931 Haverford Avenue.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes all of the gas purchased from the natural gas distribution company.
 - e. Westover does not distribute gas to any building occupants.
 - f. None of Westover's facilities are located underground.

Response:

I&E objects to this request because it exceeds the scope of permissible discovery in Commission proceedings. Section 5.321(c) of the Commission's regulations permits a party to:

obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c).

Information related to I&E's informal investigations of master meter systems at apartment complexes not identified in the Complaint or Westover's Answer and

Amended Petition are protected from disclosure by the attorney-client and deliberative process privileges. The attorney-client privilege extends to any referral from the I&E Safety Division to the I&E Enforcement Division, *i.e.*, the prosecuting attorneys, for professional legal consultation and evaluation of matters pertaining to master meter systems that were investigated by the I&E Safety Division as it relates to their enforcement or potential enforcement. The deliberative process privilege also protects these documents from disclosure as they contain confidential deliberations of law and reflect opinions, recommendations or advice.

Moreover, Deputy Chief Administrative Law Judge Christopher Pell found that Interrogatories not related to the specific apartment complexes identified in I&E's Complaint and addressed by Westover in its Answer and Amended Petition are beyond the scope of this proceeding. *See* Interim Order Addressing Motions to Compel Filed by Westover Property Management Company, L.P. and the Bureau of Investigation and Enforcement, dated October 25, 2022. Since requests for admissions are subject to the same limitations of interrogatories, namely within the scope of 52 Pa. Code §§ 5.321-5.324, and Bryn Mawr Medical Building is not identified in those pleadings, this request is inappropriate and in blatant disregard for Deputy Chief ALJ Pell's Interim Order.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Responses of the Bureau of Investigation and Enforcement to the Requests for Admission - Set II of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
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*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*

Kayla L Rost

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

Dated: February 8, 2023



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
2/8/2023	2456288

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251

Case Description:

Transmission Date: 2/8/2023 3:07 PM

Filed On: 2/8/2023 3:07 PM

eFiling Confirmation Number: 2456288

File Name	Document Type	Upload Date
C-2022-3030251 (Westover) I&E Resp to Westover Req for Admission - Set II CL&COS.pdf	Certificate of Service	2/8/2023 3:07:20 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

Exhibit 10
PHMSA Opinion Letter
(January 27, 2020)



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

JAN 27 2020

Ms. Stephanie M. Wimer
Senior Prosecutor
Pennsylvania PUC
P.O. Box 3265
Harrisburg, PA 17105-3265

Dear Ms. Wimer:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA) dated October 17, 2019, you requested an interpretation of the pipeline safety regulations in 49 Code of Federal Regulations (CFR) Parts 191 and 192. Specifically, you requested clarification on the definition of “transportation of gas” under § 191.3.

You stated the Pennsylvania Public Utility Commission's (Commission) Bureau of Investigation and Enforcement (I&E) Safety Division is currently investigating a natural gas pipeline incident that happened on September 10, 2018, in Center Township, Beaver County, Pennsylvania. The incident occurred on the Revolution Pipeline, which is made of carbon steel and is 24 inches in diameter. The pipeline runs approximately 42 miles from a compressor station in Butler County, Pennsylvania to a cryogenic processing plant in Washington County, Pennsylvania.

You stated the Revolution Pipeline is owned and operated by Energy Transfer Company (ETC), OPID 32099, and construction of the pipeline was completed in or about March 2018. When the incident occurred on September 10, 2018, the line was being brought up to optimal operating pressure and the valve serving the cryogenic processing plant was closed. With that valve closed, the cryogenic processing plant was unable to receive natural gas. You stated that on the date of the incident, ETC had not reached the deadline to register the Revolution Pipeline with the Commission, because registration of pipeline miles for the 2018 calendar year was due on March 31, 2019.

You stated that on the date of the incident, the Revolution Pipeline was in the commissioning phase and, therefore, not all valves along the pipeline were open for packing the line and, as noted above, the valve at the cryogenic processing plant was shut such that the plant could not receive gas.

You ask PHMSA’s responses for the following questions:

Question 1: Is packing the pipeline with product during the commissioning phase, where the line is in the process of being brought up to optimal operating pressure, remote

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations are not generally applicable, do not create legally-enforceable rights or obligations, and are provided to help the specific requestor understand how to comply with the regulations.

valves are disengaged and the downstream valve to the cryogenic processing plant is closed, still deemed the "transportation of gas?"

Response to Question 1:

Yes, once a pipeline has gas to flow into it, regardless of flow conditions and pressurization, the line is in-service and deemed to be transporting gas.

Section 191.3 defines transportation of gas as:

Transportation of gas means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas in or affecting interstate or foreign commerce.

Placing gas into an empty pipeline during the commissioning phase, and adding pressure into it is "transportation of gas."

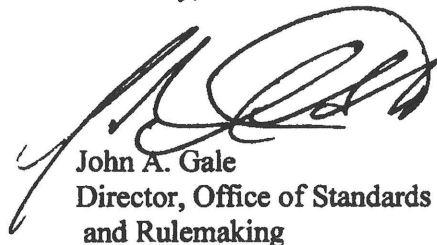
Question 2: If Question 1 is answered in the negative, does PHMSA agree that the Revolution Pipeline was not jurisdictional to the Commission at the time of the September 10, 2018 incident?

Response to question 2:

The answer to Question 1 is in the affirmative. Therefore, the Revolution Pipeline was a regulated pipeline at the time of the incident. It is important to note that the Revolution Pipeline was also subject to the pipeline safety regulations before the line began transporting gas. Part 192 of the pipeline safety regulations prescribes the minimum safety requirements for pipeline facilities *and* the transportation of gas. *See*, 49 C.F.R. § 192.1. The pipeline safety regulations apply to the materials, design, construction and testing of the Revolution Pipeline before the facility transported gas.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking

Exhibit 11
Act 127 of 2011
(The Gas and Hazardous Liquids Pipeline Act - FAQs)

Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions



1. WHAT IS ACT 127 – THE PIPELINE ACT?

Signed into law Dec. 22, 2011, the Gas and Hazardous Liquids Pipelines Act expanded the Pennsylvania Public Utility Commission's (PUC) authority to enforce the federal pipeline safety laws as they relate to non-public utility gas and hazardous liquids pipeline equipment and facilities within the state.

2. WHEN DID THE PIPELINE ACT TAKE EFFECT?

Feb. 20, 2012

3. WHY WAS THE PUC CHARGED WITH ENFORCING THE PIPELINE ACT?

The PUC is an agent for the federal Department of Transportation's Office of Pipeline and Hazardous Materials Safety Administration, charged with enforcing the federal pipeline safety regulations in Pennsylvania. The Governor and the Legislature decided that as such, the PUC should take on this additional responsibility and expanded the PUC's oversight.

4. WHAT WILL PUC ENFORCEMENT INCLUDE?

The PUC already monitors compliance with federal and state regulations by conducting frequent inspections of pipeline facilities and records of regulated gas utilities. More than 45 different types of inspections are included in the PUC's monitoring of natural gas companies and their pipeline safety. The inspections of these newly regulated facilities will be similar.

Under the Pipeline Act, the PUC has developed a registry and conducts safety inspections of the lines for all pipeline operators in the state. The Commission identifies and tracks the development of pipelines in less populated areas that transport gas from unconventional gas wells.

5. TO WHOM DO THE PROVISIONS IN ACT 127 APPLY?

Any entity who owns or operates equipment or facilities within the Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under federal pipeline safety laws.

6. WHAT IS CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Pipeline operators include: Companies engaged in the gathering, transportation or distribution of natural gas or hazardous liquids.

These include gathering companies; midstream companies; pipeline companies; gas distribution systems that are not public utilities (cooperatives, municipalities, and municipal authorities); master meter systems that provide service to property owned by third parties; and propane distribution systems subject to the federal pipeline safety laws.

7. WHAT IS NOT CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Those who are not pipeline operators include: Public utilities and city natural gas distribution operations, ultimate consumers who own service lines on their real property (including master meter systems serving their own property), and pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC).

A petroleum gas distributor who is not subject to the federal pipeline safety laws also is not considered a pipeline operator under the Pipeline Safety Act. Petroleum gas pipelines subject to the federal pipeline safety laws are pipeline operators subject to Act 127 and must register with the Commission. However, such entities can use proof of registration with Pennsylvania Department of Labor and Industry (L&I) to do so.

8. WHAT IF MY ENTITY HAS PORTIONS THAT ARE COVERED UNDER ACT 127 AND PORTIONS THAT ARE NOT?

If a person operates multiple facilities, some of which are subject to Act 127 and some of which are not, the person is a pipeline operator only with regard to the facilities subject to Act 127. For example, a person who operates a FERC jurisdictional transmission pipeline facility in addition to non-FERC jurisdictional gathering lines is a pipeline operator only with regard to the non-FERC jurisdictional gathering lines.

9. WHAT INFORMATION IS INCLUDED IN THE REGISTRY?

The registration, which is required to be filed and renewed annually, includes the location of the pipeline by class and approximate aggregate miles of pipeline serving unconventional wells.

Registrants must provide contact information, U.S. Department of Transportation (U.S. DOT) Operator ID number and federal employee identification number.

Registrants also must provide the country of manufacture for all tubular steel product installed in Pennsylvania for the exploration, gathering or transportation of natural gas or hazardous liquids during the prior calendar year.

10. WHAT IF MY ENTITY HAS MORE THAN ONE U.S. DOT OPERATOR ID NUMBER?

An entity with multiple U.S. DOT Operator ID numbers must register each U.S. DOT Operator ID number as a separate pipeline operator.

11. WHAT IS THE REGISTRATION FEE?

The registration fee is \$250 to be paid annually to the PUC. This does not include additional money assessed by the Commission to perform its duties under Act 127.

12. WHAT IS THE DEADLINE FOR REGISTRATION?

The annual registration must be submitted to the Commission by March 31 of each year.

13. MY ENTITY RECEIVED INFORMATION FROM THE COMMISSION ABOUT REGISTRATION, BUT WE DO NOT BELIEVE WE FIT THE DEFINITION. WHAT SHOULD WE DO?

Entities who are not pipeline operators pursuant to the Pipeline Act need not register, but should email Commission staff at ra-Act127@pa.gov with a justification in order to be removed from the Commission's mailing list. An entity's determination that they are not required to register under the Pipeline Act is subject to review by the Commission.

14. WHAT IF A PIPELINE OPERATOR DOESN'T REGISTER?

Pipeline operators who fail to register will be subject to civil penalties of up to \$10,000 a day that the violation persists.

15. HOW IS TUBULAR STEEL PRODUCT DEFINED?

Tubular steel product means pipe, not valves or other facilities or equipment.

16. WHAT IF THE COUNTRY OF MANUFACTURE FOR THE TUBULAR STEEL PRODUCT IS UNKNOWN?

If the country of manufacture is unknown, registrants should then indicate the length of the product installed.

17. WHY IS THE PUC CHARGING AN ASSESSMENT?

The Pipeline Safety Act authorized the PUC to assess Pennsylvania pipeline operators for the Commission's cost of carrying out the responsibilities to enforce federal pipeline safety laws as they relate to non-public utility gas and hazardous liquid pipeline equipment and facilities within the state.

18. WHAT COSTS MAY BE ASSESSED?

The PUC may assess the total approved annual budget for the gas and hazardous liquids pipeline safety program net of any Federal offset or shortfall. At the end of the fiscal year when actual costs for the entire program are determined any excess funding will be deducted from the following year's net budget amount.

19. HOW IS THE ASSESSMENT DISTRIBUTED AMONG THE PIPELINE OPERATORS?

As defined in the Act the total intrastate assessable miles are divided by the net budget amount applicable for the fiscal year. This amount is then multiplied by each pipeline operator's reported intrastate assessable mileage.

20. ARE ANY ENTITIES EXEMPT FROM PAYING THE ASSESSMENT?

Under the Pipeline Safety Act, pipeline operators who are boroughs are exempt from paying the assessment.

21. WHAT IS THE SCHEDULE FOR THE ANNUAL ASSESSMENTS AND PAYMENT DATES?

Invoices for assessment are created after the PUC budget is approved and final calculation are completed. However, it is dependent upon when the legislature and Governor approve the budgets. The expected date for invoices would be in early July each year with the payment due 30 days after receipt of the invoice.

FOR FURTHER INFORMATION, CONTACT THE PUBLIC UTILITY COMMISSION:

WRITE

PA Public Utility Commission
Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265

CALL

(717)787-5000

EMAIL

ra-Act127@pa.gov

VISIT OUR WEBSITE

www.puc.state.pa.us



**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Christopher P. Pell**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	

**DIRECT TESTIMONY OF PETER QUERCETTI
ON BEHALF OF WESTOVER
PROPERTY MANAGEMENT COMPANY, L.P.
D/B/A WESTOVER COMPANIES**

Dated: February 22, 2023

Westover St. No. 1

**DIRECT TESTIMONY OF
PETER QUERCETTI**

INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Peter Quercetti and my business address is 550 American Avenue, Suite 1, King of Prussia, PA 19406.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”) as the Vice President of Operations.

Q. WHAT ARE YOUR RESPONSIBILITIES IN THAT CAPACITY?

A. My responsibilities in this role include overseeing large and small capital improvement projects for our residential division, making emergency repairs at facilities when needed, and performing all other tasks assigned to me.

Q. PLEASE DESCRIBE YOUR PROFESSIONAL EDUCATION AND EXPERIENCE.

A. My education includes a Bachelor of Science degree in business administration from Drexel University. I have 33 years of experience in the property management industry.

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION (“COMMISSION”)?

A. No.

WESTOVER

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Q. PLEASE DESCRIBE WESTOVER AND ITS BUSINESS.

A. Westover is a Pennsylvania limited partnership. It is a property management company that operates apartment complexes and commercial properties (such as office buildings). It does not own any of the properties that it manages. As of January 1, 2023, Westover operated approximately 48 apartment complexes in the Commonwealth (totaling approximately 8,597 units). In addition, as of January 1, 2023, Westover operated approximately nine commercial properties in the Commonwealth.

Q. WHY IS WESTOVER INVOLVED IN A COMMISSION PROCEEDING?

A. Westover operates natural gas equipment and facilities at some of the apartment complexes that it operates. As discussed in the testimony of my colleague, Alexander Stefanelli, Westover Statement No. 2, the Commission’s Bureau of Investigation and Enforcement (“I&E”) investigated Westover and now takes the position that Westover is a “pipeline operator” pursuant to the Gas and Hazardous Liquids Pipelines Act (Act 127 of 2011) (“Act 127”). Westover disagrees. To resolve uncertainty over whether or not Westover operates gas equipment and facilities that are subject to Act 127, Westover filed a Petition for Declaratory Order (as amended, the “Petition”), which received Docket No. P-2021-3030002. I&E subsequently filed a Complaint against Westover, which received Docket No. C-2022-3030251. Those pleadings have been consolidated for purposes of adjudication and disposition.

1 **Q. DOES THIS CASE CONCERN EVERY APARTMENT COMPLEX AND**
2 **COMMERCIAL PROPERTY THAT WESTOVER OPERATES IN**
3 **PENNSYLVANIA?**

4 **A.** No, this case concerns only the natural gas equipment and facilities at certain properties
5 (the “Systems). My colleague, Alexander Stefanelli, identifies the Systems in his
6 testimony. Westover Statement No. 2.

7
8 **Q. HOW LONG HAS WESTOVER OPERATED GAS FACILITIES OR EQUIPMENT**
9 **AT APARTMENT COMPLEXES AND/OR COMMERCIAL PROPERTIES IN**
10 **PENNSYLVANIA?**

11 **A.** To the best of my knowledge, Westover has owned or operated gas facilities or equipment
12 at apartment complexes and/or commercial properties in Pennsylvania since approximately
13 1965. Westover was never approached by staff of the Commission about being subject to
14 Commission regulation until we experienced a leak at Jamestown Village in May, 2018.

15
16 **Q. TO THE BEST OF YOUR KNOWLEDGE, HAS WESTOVER EVER HAD A GAS**
17 **ACCIDENT AT A PENNSYLVANIA APARTMENT COMPLEX OR**
18 **COMMERCIAL PROPERTY THAT CAUSED PROPERTY DAMAGE OR**
19 **PERSONAL INJURY?**

20 **A.** No. I&E attempts to portray Westover’s Systems as posing an imminent threat to public
21 safety. For example, on page 3 of its Answer to Amended Petition, I&E claims “An
22 immediate threat to public safety exists with each and every day that Westover fails to
23 submit to the Commission’s jurisdiction and implement the pertinent pipeline safety rules.”

1 I&E ignores Westover’s excellent gas safety record over a long period of time. Westover
2 takes safety very seriously and makes every effort to keep its properties safe for tenants,
3 guests, and other persons.

4 I&E’s Complaint discusses a gas leak at Jamestown Village in May, 2018.
5 Jamestown Village was not identified in the Complaint, in Westover’s Answer and New
6 Matter, or in the Petition. Consequently, this incident is irrelevant to this proceeding.

7 Nevertheless, since I&E is blowing the Jamestown Village incident out of
8 proportion, let me take a minute to discuss it. Based on our investigation, we concluded
9 that gas might have leaked from a Westover-operated underground gas line at Jamestown
10 Village. Westover contacted PECO Energy Company (Gas Division) (“PECO”), which
11 ran a new line off of its gas main and installed a meter. The Westover-operated
12 underground gas line was abandoned. Westover no longer operates any underground gas
13 lines at Jamestown Village.

14 Since the Petition was filed in December 2021, Westover has experienced three gas
15 incidents at the Systems involved in this case. One leak occurred at the Hillcrest System,
16 which resulted in a temporary outage of gas service, but did not result in personal injuries
17 or property damage. The leak was quickly, effectively and safely repaired and service was
18 restored after repairs were completed. The System passed a leak survey. **Westover**
19 **Exhibit PQ-1.**

20 Leaks occurred in the NGDC’s facilities at Woodland Plaza (these leaks were
21 discovered during I&E’s inspection of Woodland Plaza during discovery in this case). Gas
22 service to building occupants did not need to be turned off while the NGDC made repairs.

1 Finally, leaks were discovered at Gladstone Towers (these leaks were also
2 discovered during an inspection by I&E during discovery in this case). These leaks resulted
3 in a temporary outage of gas service, but did not result in personal injuries or property
4 damage. The leaks were quickly, effectively and safely repaired and service was restored
5 after repairs were completed. The System passed two leak surveys. I will discuss the
6 incidents at Woodland Plaza and Gladstone Towers in detail later in my testimony.

7 In short, the Commission should not be fooled by I&E’s hyperbole about Westover
8 posing risks to public safety. Westover takes public safety seriously and has demonstrated
9 that it is capable of operating its Systems in a safe manner.

10
11 **Q. WHEN WESTOVER’S SYSTEMS NEED MAINTENANCE, WHO PERFORMS**
12 **THE WORK?**

13 **A.** All work is done by qualified individuals. We frequently use Miller Brothers, who has
14 personnel on its staff who have completed the requirements established by the Operator
15 Qualification rule of the Pipeline and Hazardous Materials Safety Administration
16 (“PHMSA”). A Westover employee is currently in the process of completing these same
17 requirements.

18
19 **STRUCTURE AND OPERATION OF WESTOVER’S SYSTEMS**

20 **Q. WHAT IS A “MASTER METER SYSTEM”?**

21 **A.** I am advised by counsel that Act 127 defines the “Federal pipeline safety laws” as:

22
23 The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous
24 Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline
25 Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the
26 regulations promulgated under the acts.

1 58 P.S. § 801.102 (“Definitions”).

2 I am further advised by counsel that the Federal pipeline safety laws define a
3 “master meter system” as:

4 ... a pipeline system for distributing gas within, but not limited to, a
5 definable area, such as a mobile home park, housing project, or apartment
6 complex, where the operator purchases metered gas from an outside source
7 for resale through a gas distribution pipeline system. The gas distribution
8 pipeline system supplies the ultimate consumer who either purchases the
9 gas directly through a meter or by other means, such as by rents[.]

10 49 CFR § 191.3.

11 Consequently, I am advised by counsel that, for any of Westover’s Systems to
12 constitute a “master meter system,” as defined by the Federal pipeline safety laws, that
13 system must satisfy *all four elements* of the following test:

- 14 a. The apartment complex must have a pipeline system for distributing gas
15 within, but not limited to, a definable area, such as an apartment complex.
- 16 b. Westover must be the operator of that pipeline system.
- 17 c. Westover must purchase metered gas from an outside source.
- 18 d. Westover must resell that gas to the ultimate consumer through a gas
19 distribution pipeline system. The ultimate consumer must purchase the gas
20 from Westover directly through a meter or by other means (such as by
21 rents).

22

23 **Q. DO ANY OF WESTOVER’S SYSTEMS MEET ALL FOUR ELEMENTS OF THIS**
24 **TEST?**

25 **A.** No. However, different Systems are not “master meter systems” for different reasons. I
26 will describe each System involved in this case and explain why each one is not a “master
27 meter system.”

28 To reduce repetition, let me say at the outset that Westover’s Systems only provide
29 gas service to occupants of buildings on the properties operated by Westover. In most
30 cases, the building occupants are tenants. At some apartment complexes, however, the

1 property owner has a leasing office on site. For ease of reference, I will use the term
2 “building occupants” to describe the residents and other persons occupying the buildings
3 on the properties operated by Westover.
4

5 **WILLOW RUN**

6 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT WILLOW RUN IS NOT A “MASTER**
7 **METER SYSTEM.”**

8 **A.** A map of this System is attached as **Westover Exhibit PQ-2 (CONFIDENTIAL)**. At
9 Willow Run, gas is transferred from the natural gas distribution company (“NGDC”) to
10 building occupants at meters on the buildings.¹ Westover does not purchase any gas from
11 the NGDC, nor does it resell gas to building occupants. Building occupants use the gas for
12 heating and cooking. Building occupants pay the NGDC directly for the gas. Westover
13 does not operate any equipment or facilities for distributing gas to building occupants
14 because building occupants buy their gas directly from the NGDC.

15 The System at Willow Run does not constitute a “master meter system” for the
16 following reasons:

17 A. The first element of the definition of a “master meter system” requires that
18 the system have a pipeline system for distributing gas within, but not limited
19 to, a definable area, such as an apartment complex. I&E admits that
20 Westover does not own a pipeline system for distributing gas at Willow

¹ At all Systems involved in this case, gas is transferred from the NGDC to a customer at the meter. PECO Tariff Gas-Pa.P.U.C. No. 5 Original Page No. 6 (defining the delivery point as “That point at which the Customer’s facilities are connected to the Company’s facilities which is typically the first fitting after the outlet side of the meter connection, or in certain cases the first fitting after the outlet side of the regulator or relief valve if located downstream of the meter.”); Tariff UGI Gas – Pa. P.U.C. No. 7 Original Page No. 22 (defining point of delivery as “the outlet of company facilities; usually the meter or regulator outlet” and defining gas service as “The furnishing of gas by the Company at the point of delivery regardless of whether the Customer makes any use of the gas.”).

1 Run. I&E also admits that all of Westover’s gas facilities at Willow Run
2 are located within the apartment complex. **Westover Exhibit PQ-3** pp. 2-
3 3. Since Westover’s System is located entirely within the apartment
4 complex, it does not meet the first element of the definition of a “master
5 meter system.”

6 B. The third element of the definition of a “master meter system” requires the
7 operator of the system to buy gas from an outside source. Westover does
8 not purchase gas from an NGDC at Willow Run. Instead, the NGDC sells
9 the gas directly to building occupants, who are the ultimate consumers of
10 the gas.

11 C. The fourth element of the definition of a “master meter system” requires the
12 operator of the system to resell gas to the ultimate consumer of the gas. At
13 Willow Run, Westover does not resell gas to anyone. The gas is transferred
14 directly from the NGDC to the building occupants at the meters. I&E
15 admits that Westover does not resell any gas. **Westover Exhibit PQ-3**, p.
16 3.

17 D. The fourth element of the definition of a “master meter system” also
18 requires that the building occupant purchase the gas from Westover through
19 a meter, through rent, or by other means. At this apartment complex,
20 building occupants do not pay Westover; they pay the NGDC directly.
21

1 **LANSDALE VILLAGE**

2 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT LANSDALE VILLAGE IS NOT A**
3 **“MASTER METER SYSTEM.”**

4 **A.** A map of this System is attached as **Westover Exhibit PQ-4 (CONFIDENTIAL)**. At this
5 apartment complex, gas is transferred from the NGDC to Westover at a meter attached to
6 one building in the complex. Westover burns all the gas in a central boiler in that building
7 to produce heat and hot water, which is distributed to occupants of all buildings in the
8 complex. Westover does not distribute gas or resell it to building occupants. Building
9 occupants use electricity for cooking; they do not use natural gas at all. Building occupants
10 pay Westover for the gas that Westover consumes. They are billed using an allocation
11 methodology.²

12 The System at Lansdale Village is not a “master meter system” for all of the
13 following reasons:

14 A. The first element of the definition of a “master meter system” requires that
15 the system have a pipeline system for distributing gas within, but not limited
16 to, a definable area, such as an apartment complex. At Lansdale Village,
17 all gas equipment and facilities operated by Westover are located within the
18 apartment complex. I&E admits that all of Westover’s gas facilities at
19 Lansdale Village are located within the apartment complex. **Westover**
20 **Exhibit PQ-5** p. 10. Since Westover’s System is within, but limited to, the
21 apartment complex, it does not meet the first element of the definition of a
22 “master meter system.”

² A ratio utility billing system (“RUBS”) is used to allocate gas expenses to building occupants. The details of the allocation methodology varies by System.

1 B. The third element of the definition of a “master meter system” requires that
2 the system operator purchase gas from an outside source, and the fourth
3 element of that test requires the operator to resell that gas through a
4 distribution system to the ultimate consumer of the gas. In short, the
5 operator of a “master meter system” takes possession of the gas, then
6 transfers possession of the gas to another party, who burns the gas.

7 That is not what happens at this apartment complex. Westover does
8 not purchase gas for resale; it purchases the gas to burn it. Westover does
9 not transport the gas through a distribution system to the ultimate consumer.
10 Westover consumes the gas to produce heat and hot water, and it transports
11 heat and hot water through a distribution system to building occupants.

12 In its Answer to Westover’s Amended Petition, ¶ 27, I&E argued
13 that, since building occupants pay for the gas that Westover burns in its
14 central boiler, building occupants are the ultimate consumers of the gas. To
15 me, this argument seems inconsistent with opinion letters of PHMSA.

16 I am advised by counsel that, in an opinion letter regarding the gas
17 system operated by Bryant College, PHMSA stated that the college’s
18 system did not appear to meet the definition of a “master meter system”
19 because the college burned the gas and provided heat and hot water to
20 campus buildings. Bryant College was considered the consumer of the gas.
21 PHMSA warned, however, that if Bryant College provides gas to
22 consumers, such as tenants, it is engaged in the distribution of gas and the
23 persons to whom it is providing the gas would be considered the consumers.

1 In that situation, the college pipeline system would be a “master meter
2 system.” **Westover Exhibit PQ-6.**

3 In a later opinion letter, involving a different college’s gas system,
4 PHMSA reached the same result. It stated:

5 [I]f the college-owned gas system consumes the gas and
6 provides another type of service such as heat or air
7 conditioning, to the individual buildings, then the college is
8 not engaged in the distribution of gas. In this instance the
9 college would be the ultimate consumer, and the Federal
10 pipeline safety standards would only apply to mains and
11 service lines upstream of the meter.

12 **Westover Exhibit PQ-7.**

13 I think I&E’s argument is inconsistent with these PHMSA opinion
14 letters. The PHMSA opinions make more sense to me. There is obviously
15 a difference between (a) Westover burning gas in its boiler and supplying
16 heat and hot water to building occupants, and (b) Westover distributing gas
17 to building occupants for them to burn in their heaters. The fact that
18 building occupants pay Westover for the gas in both cases does not
19 eliminate that difference. The two situations should not be treated the same.

20
21 **CONCORD COURT**

22 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT CONCORD COURT IS NOT A**
23 **“MASTER METER SYSTEM.”**

24 **A.** A map of this System is attached as **Westover Exhibit PQ-8 (CONFIDENTIAL)**. At this
25 apartment complex, gas is transferred from the NGDC to Westover at a meter on each
26 apartment building, Westover consumes all the gas in its boiler in the building, and supplies
27 heat and hot water to building occupants. Westover does not resell any gas at this

1 apartment complex. Building occupants use electricity for cooking; they do not consume
2 natural gas at all. Westover does not operate any equipment or facilities for distributing
3 gas to building occupants because building occupants do not consume any gas. Building
4 occupants pay Westover for the gas that Westover consumes based on RUBS.

5 This System is not a “master meter system” for the same reasons as Lansdale
6 Village:

7 A. All of Westover’s gas facilities are located in the apartment complex. I&E
8 admits that all of Westover’s gas facilities are located within the apartment
9 complex. **Westover Exhibit PQ-5** p. 17. As explained above, in this
10 situation, the first element of the test of a “master meter system” is not
11 satisfied.

12 B. As discussed above, the definition of a “master meter system” requires the
13 operator of a “master meter system” to take possession of the gas, then
14 transfer possession to another party, who burns the gas. That does not
15 happen at this apartment complex. Westover does not purchase gas for
16 resale; Westover purchases the gas to burn it. Westover does not transport
17 the gas through a distribution system to the ultimate consumer. Westover
18 consumes the gas to produce heat and hot water, and it transports heat and
19 hot water (not gas) to building occupants.

20
21 **BLACK HAWK**

22 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT BLACK HAWK IS NOT A**
23 **“MASTER METER SYSTEM.”**

1 A. A map of this System is attached as **Westover Exhibit PQ-9 (CONFIDENTIAL)**. At this
2 apartment complex, gas is transferred from the NGDC to Westover at a meter on each
3 apartment building. Westover consumes all the gas in its central boiler, and provides heat
4 and hot water to building occupants. Westover does not resell any gas at this apartment
5 complex. Building occupants use electricity for cooking; they do not consume natural gas
6 at all. Westover does not operate any equipment or facilities for distributing gas to building
7 occupants because building occupants do not consume any gas. Building occupants pay
8 Westover for the gas that Westover consumes through their rent.

9 This System is not a “master meter system” for the same reasons as the Systems at
10 Lansdale Village and Concord Court:

11 A. All gas facilities operated by Westover are located within the complex. I&E
12 admits that all of Westover’s gas facilities at Black Hawk are located within
13 the apartment complex. **Westover Exhibit PQ-5** p. 11. As explained
14 above, in this situation, the first element of the test of a “master meter
15 system” is not satisfied.

16 B. As discussed above, the definition of a “master meter system” requires the
17 operator of a “master meter system” to take possession of the gas, then
18 transfer possession to another party, who burns the gas. That does not
19 happen at this apartment complex. Westover does not purchase gas for
20 resale; Westover purchases the gas to burn it. Westover does not transport
21 the gas through a distribution system to the ultimate consumer. Westover
22 consumes the gas to produce heat and hot water, and it transports heat and
23 hot water (not gas) to building occupants.

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WOODLAND PLAZA

Q. PLEASE EXPLAIN WHY THE SYSTEM AT WOODLAND PLAZA IS NOT A “MASTER METER SYSTEM.”

A. A map of this System is attached as **Westover Exhibit PQ-10 (CONFIDENTIAL)**. At this apartment complex, gas is transferred from the NGDC to Westover at meters on the buildings. Westover consumes some of the gas (to produce heat and hot water, which is distributed to building occupants) and pipes the remainder to building occupants (who use it for cooking). Virtually all of Westover’s distribution piping is located inside a building. The only exterior piping is a few feet of pipe between the meter and the outside wall of the building. Westover does not operate any underground pipes at this apartment complex. Building occupants pay Westover for the gas (both the gas that Westover consumes and the gas that the occupants consume) based on RUBS.

This System does not meet the test of a “master meter system” for the following reasons:

- A. All gas facilities operated by Westover are located within the apartment complex. I&E admits that all of Westover’s gas facilities at this complex are located within the apartment complex. **Westover Exhibit PQ-11 p. 5.** As explained above, in this situation, the first element of the test of a “master meter system” is not satisfied.
- B. This System is comprised of several distinct gas systems, each of which distributes gas through pipes that are located almost entirely within a building. I am advised by counsel that PHMSA has issued many letters

1 expressing an opinion on whether piping inside a building is a “master meter
2 system.” Those letters have not always reached the same conclusion.

3 In my mind, the fact pattern at Woodland Plaza is virtually the same
4 as the fact pattern in PI-76-0114. **Westover Exhibit PQ-11.** There,
5 PHMSA was asked whether the piping downstream from a meter constitutes
6 a “master meter system” if “none of the piping is exposed or underground.”

7 PHMSA opined:

8 A system which involves interior piping only (*i.e.*,
9 underground or exterior pipelines are not used to distribute
10 gas) is not a master meter system subject to 49 CFR Part 192.
11 The legislative history of the Natural Gas Pipeline Safety
12 Act of 1968, under which 49 CFR Part 192 is issued,
13 indicates that in authorizing the safety regulation of the
14 distribution of gas by pipelines, Congress had in mind those
15 distribution systems which are primarily located outside.
16 Thus, interior piping is only subject to regulation when it is
17 included in an operator’s system which is otherwise located
18 outside.

19
20 I think the Commission should adopt this same position. It is
21 consistent with the first element of the test of a “master meter system.” As
22 I have stated several times previously, the first element of the test of a
23 “master meter system” requires that the system be “*within, but not limited*
24 *to*” a definable area such as an apartment complex. Clearly, a system that
25 takes gas from a meter just outside a building and distributes it to units in
26 the same building is *within, but limited to* the definable area of the apartment
27 complex.

1 At Woodland Plaza, the only exterior piping is a few feet of pipe
2 from the meter to the wall of the building.³ This piping is entirely within
3 the boundaries of the apartment complex. Therefore, Westover’s System
4 still does not meet the first element of the definition of a “master meter
5 system.”

6 Finally, public safety will not be compromised if the Commission
7 finds the above PHMSA opinion letter persuasive. Pipes inside a building
8 are already subject to safety regulation. I am advised by counsel that the
9 Uniform Construction Code applies to the construction, alteration, repair,
10 movement, equipment, removal, demolition, location, maintenance,
11 occupancy or change of occupancy of every building on or after April 9,
12 2004. 34 Pa. Code § 403.1. Counsel further advises me that the Uniform
13 Construction Code incorporates by reference the International Fuel Gas
14 Code of 2018, 34 Pa. Code § 403.21(a)(4), which addresses the design and
15 installation of fuel gas piping systems. Finally, counsel advises me that the
16 Uniform Construction Code is enforced by municipalities or the
17 Pennsylvania Department of Labor and Industry. As a result, it seems to
18 me that public safety is already being protected when all gas pipelines are
19 located inside a building. Moreover, if the Commission would find that
20 owner/operators of apartment complexes must comply with the regulations
21 regarding “master meter systems” with regard to interior piping, those

³ It is my understanding that Commission regulations generally require meters to be located outside a building. As a result, if the exterior piping between the meter and the outside wall of the building is enough to make the gas system at the apartment complex a “master meter system” operator, then virtually all apartment building owner/operators will be “master meter system” owner/operators.

1 owner/operators could be caught between two inconsistent regulatory
2 schemes. This result would not be in the public interest.

3 C. This System does not meet the second element of the test of a “master meter
4 system” because Westover is not the “operator” of a pipeline system. I am
5 advised by counsel that an “operator” is defined as a person who engages in
6 the transportation of gas, and the transportation of gas is defined as the
7 gathering, transmission, distribution or storage of gas “in or affecting
8 interstate or foreign commerce.” At this apartment complex, Westover does
9 not distribute gas “in or affecting interstate or foreign commerce.”
10 Westover purchases gas from a Commission-regulated public utility on the
11 grounds of the apartment complex in Pennsylvania. Westover transports
12 the gas within its building, without crossing a state line. Westover then
13 resells the gas to building occupants in Pennsylvania.

14 Moreover, Westover’s purchase and re-sale of the gas does not
15 increase the amount of gas purchased and sold; Westover only purchases
16 the amount of gas that the building occupants would have purchased if they
17 bought gas directly from the NGDC. Additionally, Westover’s purchase
18 and resale of the gas is well downstream of any transaction in interstate or
19 foreign commerce and does not affect those prior transactions.

20 Since this System is not “in or affecting interstate or foreign
21 commerce,” it does not engage in the transportation of gas, and Westover is
22 not the operator of a pipeline system at this apartment complex. This

1 System therefore does not satisfy the second element of the definition of a
2 “master meter system.”

3
4 **FOX RUN**

5 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT FOX RUN IS NOT A “MASTER**
6 **METER SYSTEM.”**

7 **A.** A map of this System is attached as **Westover Exhibit PQ-12 (CONFIDENTIAL)**. At
8 this apartment complex, gas is transferred from the NGDC to Westover at meters on the
9 buildings. Westover consumes some of the gas (to produce hot water, which is distributed
10 to building occupants) and pipes the remainder to building occupants (who consume the
11 gas to produce heat). Westover distributes gas to building occupants using pipes inside the
12 apartment buildings; Westover does not operate any exterior or underground gas piping at
13 this apartment complex. Building occupants pay Westover for the gas they consume based
14 on actual usage, which is metered in each unit. The gas that Westover consumes is treated
15 like any other expense of operating the apartments, and is paid for through rent.

16 This System does not meet the test of a “master meter system” for the same reasons
17 as the System at Woodland Plaza:

18 **A.** All gas facilities operated by Westover are located within the apartment
19 complex. I&E admits that all of Westover’s gas facilities at this complex
20 are located within the apartment complex. **Westover Exhibit PQ-5 p. 20.**

21 This System therefore does not meet the first element of the test of a “master
22 meter system.”

1 B. Westover’s distribution system is entirely comprised of piping inside a
2 building. As discussed above, the Commission should find that such a
3 system is not a “master meter system.”

4 C. This System does not meet the second element of the test of a “master meter
5 system” because Westover is not the “operator” of a pipeline system at this
6 complex. The facts here are similar to those at the Woodland Plaza
7 complex: Westover purchases the gas within the boundaries of the
8 apartment complex in Pennsylvania and transports the gas within a building
9 in Pennsylvania, where it is resold to building occupants. Moreover,
10 Westover’s purchase and re-sale of the gas does not increase the amount of
11 gas purchased and sold; Westover only purchases the amount of gas that the
12 building occupants would have purchased if they bought gas directly from
13 the NGDC. Additionally, Westover’s purchase and resale of the gas is well
14 downstream of any transaction in interstate or foreign commerce and does
15 not affect those prior transactions.

16 As explained above, in such a situation, the System does not
17 distribute gas “in or affecting interstate or foreign commerce.”
18 Consequently, the Commission should reach the same result as it does
19 regarding the Woodland Plaza System. In both cases, Westover’s System
20 does not satisfy all four parts of the definition of a “master meter system.”

1 **COUNTRY MANOR**

2 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT COUNTRY MANOR IS NOT A**
3 **“MASTER METER SYSTEM.”**

4 **A.** A map of this System is attached as **Westover Exhibit PQ-13 (CONFIDENTIAL)**. At
5 this apartment complex, gas is transferred from the NGDC to Westover at meters on the
6 buildings. Westover consumes some of the gas (to produce heat and hot water, which is
7 distributed to building occupants) and pipes the remainder to building occupants (who use
8 it for cooking). Virtually all of Westover’s gas piping is located inside an apartment
9 building. The only exterior piping at this complex is a few feet of pipe between the meter
10 and the outside wall of the building. Westover does not operate any underground gas pipes
11 at this complex. Beginning in 2023, building occupants pay Westover for the gas (both the
12 gas consumed by Westover and the gas consumed by the occupants) based on RUBS.

13 This System does not meet the test of a “master meter system” for the same reasons
14 as Woodland Plaza and Fox Run:

15 A. All gas facilities operated by Westover are located within the apartment
16 complex. I&E admits that all of Westover’s gas facilities at this complex
17 are located within the apartment complex. **Westover Exhibit PQ-14** p. 9.
18 This System therefore does not meet the first element of the test of a “master
19 meter system.”

20 B. Virtually all of Westover’s distribution system is piping inside a building.
21 At Country Manor, the only exterior piping is a few feet of pipe from the
22 meter to the wall of the building. This piping is entirely within the
23 apartment complex. Therefore, as discussed above in reference to the

1 Woodland Plaza System, the System at County Manor does not meet the
2 definition of a “master meter system.”

3 C. This System does not meet the second element of the test of a “master meter
4 system” because Westover is not the “operator” of a pipeline system at this
5 complex. The facts here are similar to those at the Woodland Plaza
6 complex: Westover purchases the gas within the boundaries of the
7 apartment complex in Pennsylvania and transports the gas in Pennsylvania,
8 where it is resold to building occupants. Moreover, Westover’s purchase
9 and re-sale of the gas does not increase the amount of gas purchased and
10 sold; Westover only purchases the amount of gas that the building occupants
11 would have purchased if they bought gas directly from the NGDC.
12 Additionally, Westover’s purchase and resale of the gas is well downstream
13 of any transaction in interstate or foreign commerce and does not affect
14 those prior transactions.

15 As explained above, in such a situation, the System does not
16 distribute gas “in or affecting interstate or foreign commerce.”
17 Consequently, the Commission should reach the same result as it does
18 regarding the Woodland Plaza System. In both cases, Westover’s System
19 does not satisfy all four parts of the definition of a “master meter system.”
20

21 **Q. DID WESTOVER MODIFY THE SYSTEM AT COUNTRY MANOR AFTER I&E**
22 **FILED ITS COMPLAINT?**

23 **A.** Yes. Westover hired Miller Brothers to remove an underground gas line in the complex.
24 This work has been completed.

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NORRITON EAST

Q. PLEASE EXPLAIN WHY THE SYSTEM AT NORRITON EAST IS NOT A “MASTER METER SYSTEM.”

A. A map of this System is attached as **Westover Exhibit PQ-15 (CONFIDENTIAL)**. This apartment complex is comprised of a single building. At this building, gas is transferred from the NGDC to Westover at meters outside the building. Westover consumes some of the gas (to produce heat and hot water, which is distributed to building occupants) and pipes the remainder to building occupants (who use it for cooking and for coin-operated dryers). Virtually all of Westover’s gas pipes are located within the building; the only exterior piping is a few feet of pipe from the meter to the outside wall. Westover does not operate any underground gas pipes at this apartment building. Building occupants pay Westover for the gas (both the gas that Westover consumes and the gas that building occupants consume) in their rent.

This System does not meet the test of a “master meter system” for the same reasons as Woodland Plaza, Fox Run and Country Manor:

- A. All gas facilities operated by Westover are located within the apartment complex. I&E admits that all of Westover’s gas facilities at this complex are located within the apartment complex. **Westover Exhibit PQ-3 p. 7.** This System therefore does not meet the first element of the test of a “master meter system.”
- B. Virtually all of Westover’s distribution system is comprised of piping inside a building. As discussed above, with reference to the Systems at Woodland

1 Plaza, and Country Manor, the Commission should find that such a system
2 is not a “master meter system.”

3 C. This System does not meet the second element of the test of a “master meter
4 system” because Westover is not the “operator” of a pipeline system at this
5 complex. The facts here are similar to those at the Woodland Plaza
6 complex: Westover purchases the gas within the boundaries of the
7 apartment complex in Pennsylvania and transports the gas in Pennsylvania,
8 where it is resold to building occupants. Moreover, Westover’s purchase
9 and re-sale of the gas does not increase the amount of gas purchased and
10 sold; Westover only purchases the amount of gas that the building occupants
11 would have purchased if they bought gas directly from the NGDC.
12 Additionally, Westover’s purchase and resale of the gas is well downstream
13 of any transaction in interstate or foreign commerce and does not affect
14 those prior transactions.

15 As explained above, in such a situation, the System does not
16 distribute gas “in or affecting interstate or foreign commerce.”
17 Consequently, the Commission should reach the same result as it does
18 regarding the Woodland Plaza System. In both cases, Westover’s System
19 does not satisfy all four parts of the definition of a “master meter system.”
20

21 **PARK COURT**

22 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT PARK COURT IS NOT A “MASTER**
23 **METER SYSTEM.”**

1 A. A map of this System is attached as **Westover Exhibit PQ-16 (CONFIDENTIAL)**. At
2 this apartment complex, gas is transferred from the NGDC to Westover at meters on each
3 building. Westover consumes some of the gas (to produce hot water, which is distributed
4 to building occupants), and pipes the remainder to building occupants (who use it for
5 heating, cooking and coin-operated dryers). Westover currently operates an underground
6 gas pipe at this complex, as well as a gas pipe that is located on the outside of a building.
7 The remaining pipes are located inside the apartment buildings. Building occupants pay
8 Westover for the gas (for both the gas that Westover consumes and the gas that occupants
9 consume) based on RUBS.

10 This System does not meet the definition of a master meter system for the following
11 reasons:

12 A. All gas facilities operated by Westover are located within the apartment
13 complex. I&E admits that all of Westover’s gas facilities at this complex
14 are located within the apartment complex. **Westover Exhibit PQ-5** p. 6.
15 This System therefore does not meet the first element of the test of a “master
16 meter system.”

17 B. This System does not meet the second element of the test of a “master meter
18 system” because Westover is not the “operator” of a pipeline system at this
19 complex. Westover purchases the gas within the boundaries of the
20 apartment complex in Pennsylvania and transports the gas within the
21 complex in Pennsylvania, where it is resold to building occupants.
22 Moreover, Westover’s purchase and re-sale of the gas does not increase the
23 amount of gas purchased and sold; Westover only purchases the amount of

1 gas that the building occupants would have purchased if they bought gas
2 directly from the NGDC. Additionally, Westover’s purchase and resale of
3 the gas is well downstream of any transaction in interstate or foreign
4 commerce and does not affect those prior transactions.

5 As explained above, in such a situation, the System does not
6 distribute gas “in or affecting interstate or foreign commerce.”
7 Consequently, the Commission should find that the System does not satisfy
8 all four parts of the definition of a “master meter system.”
9

10 **Q. DID WESTOVER MODIFY THE SYSTEM AT PARK COURT AFTER I&E**
11 **FILED ITS COMPLAINT?**

12 **A.** Yes. At the time the Complaint was filed, the gas was transferred from the NGDC to
13 Westover at two meters in the complex. Westover piped the gas to each building, where it
14 consumed some of the gas and piped the remainder to building occupants. After the
15 Complaint was filed, UGI Utilities, Inc. (“UGI”) removed the existing meters and replaced
16 them with meters on each building. At each building, Westover continues to consume
17 some of the gas and pipe the remainder to building occupants.
18

19 **OAK FOREST**

20 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT OAK FOREST IS NOT A “MASTER**
21 **METER SYSTEM.”**

22 **A.** A map of this System is attached as **Westover Exhibit PQ-17 (CONFIDENTIAL)**. At
23 this apartment complex, gas is transferred from the NGDC to Westover at a meter located
24 in the complex. Westover pipes the gas from that meter to the buildings, where Westover

1 consumes some of the gas (to produce heat and hot water, which is distributed to building
2 occupants) and pipes the remainder to building occupants (who consume it for cooking).
3 Westover operates some underground gas piping at this System. Building occupants pay
4 Westover for the gas (for both the gas that Westover consumes and the gas that building
5 occupants consume) in their rent.

6 This System does not meet the test of a “master meter system” for the same reasons
7 as Park Court:

8 A. All gas facilities operated by Westover are located within the apartment
9 complex. I&E admits that all of Westover’s gas facilities at this complex
10 are located within the apartment complex. **Westover Exhibit PQ-5** p. 22.

11 This System therefore does not meet the first element of the test of a “master
12 meter system.”

13 B. This System does not meet the second element of the test of a “master meter
14 system” because Westover is not the “operator” of a pipeline system at this
15 complex. Westover purchases the gas within the boundaries of the
16 apartment complex in Pennsylvania and transports the gas within the
17 complex in Pennsylvania, where the gas is resold to building occupants.
18 Moreover, Westover’s purchase and re-sale of the gas does not increase the
19 amount of gas purchased and sold; Westover only purchases the amount of
20 gas that the building occupants would have purchased if they bought gas
21 directly from the NGDC. Additionally, Westover’s purchase and resale of
22 the gas is well downstream of any transaction in interstate or foreign
23 commerce and does not affect those prior transactions.

1 As explained above, in such a situation, the System does not
2 distribute gas “in or affecting interstate or foreign commerce.”
3 Consequently, the Commission should find that the System does not satisfy
4 all four parts of the definition of a “master meter system.”
5

6 **Q. DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT OAK FOREST?**

7 **A.** Yes. The NGDC will remove the single meter in the complex and replace it with a meter
8 on each building. The NGDC will also take over all underground gas piping. When this
9 project is completed, Westover will only transport gas from the meter to building
10 occupants. We have a signed contract with the NGDC for this project.
11

12 **GLADSTONE TOWERS**

13 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT GLADSTONE TOWERS IS NOT A**
14 **“MASTER METER SYSTEM.”**

15 **A.** A map of this System is attached as **Westover Exhibit PQ-18 (CONFIDENTIAL)**. At
16 this apartment complex, gas is transferred from the NGDC to Westover at two meters
17 located outside the building labeled on the map as Building AB. The meters measure the
18 gas used by the buildings labeled AB and CD (the gas is piped through an underground
19 line to Building CD). At each building, Westover consumes some of the gas (to produce
20 hot water, which is distributed to building occupants) and pipes the remainder to building
21 occupants (who use it for heating, cooking and running dryers in units). Building
22 occupants pay Westover for the gas that they consume based on their usage, which is

1 metered at each unit. The gas that Westover consumes is treated like any other expense of
2 operating the property, and is paid for through rents.

3 This System does not meet the test of a “master meter system” for the same reasons
4 as Park Court and Oak Forest:

5 A. All gas facilities operated by Westover are located within the apartment
6 complex. I&E admits that all of Westover’s gas facilities at this complex
7 are located within the apartment complex. **Westover Exhibit PQ-5** p. 23.
8 This System therefore does not meet the first element of the test of a “master
9 meter system.”

10 B. This System does not meet the second element of the test of a “master meter
11 system” because Westover is not the “operator” of a pipeline system at this
12 complex. Westover purchases the gas within the boundaries of the
13 apartment complex in Pennsylvania and transports the gas within the
14 complex in Pennsylvania, where the gas is resold to building occupants.
15 Moreover, Westover’s purchase and re-sale of the gas does not increase the
16 amount of gas purchased and sold; Westover only purchases the amount of
17 gas that the building occupants would have purchased if they bought gas
18 directly from the NGDC. Additionally, Westover’s purchase and resale of
19 the gas is well downstream of any transaction in interstate or foreign
20 commerce and does not affect those prior transactions.

21 As explained above, in such a situation, the System does not
22 distribute gas “in or affecting interstate or foreign commerce.”

1 Consequently, the Commission should find that the System does not satisfy
2 all four parts of the definition of a “master meter system.”
3

4 **Q. DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT GLADSTONE**
5 **TOWERS?**

6 **A.** Yes. We are currently considering two options. One is to switch from gas to electric at
7 this apartment complex. The alternative is having the NGDC remove the existing meter
8 and replacing it with meters for each unit. If we choose the second option, the project will
9 result in the NGDC transferring the gas directly to the building occupant. In addition, if
10 we continue to use gas, the NGDC will take over all underground gas piping.

11 Extensive utility surveys need to be completed. Westover has signed the contract
12 to have a private company mark out the property so that the NGDC can complete its gas
13 design. Westover will decide which option to pursue after it receives a quote for each
14 option.
15

16 **MAIN LINE BERWYN**

17 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT MAIN LINE BERWYN IS NOT A**
18 **“MASTER METER SYSTEM.”**

19 **A.** A map of this System is attached as **Westover Exhibit PQ-19 (CONFIDENTIAL)**. At
20 this apartment complex, gas is transferred from the NGDC to Westover at a meter in the
21 complex. Westover pipes the gas to buildings in the complex. Westover consumes gas for
22 hot water; the remainder of the gas is piped to building occupants (who use it for heating
23 and cooking). Westover operates some underground gas piping at this System. Building

1 occupants pay Westover for the gas that they consume based on their usage, which is
2 metered at each unit. The gas that Westover consumes is treated like any other expense of
3 operating the property, and is paid for through rents.

4 This System does not meet the test of a “master meter system” for the same reasons
5 as Park Court, Oak Forest and Gladstone Towers:

6 A. All gas facilities operated by Westover are located within the apartment
7 complex. I&E admits that all of Westover’s gas facilities at this complex
8 are located within the apartment complex. **Westover Exhibit PQ-5** p. 24.
9 This System therefore does not meet the first element of the test of a “master
10 meter system.”

11 B. This System does not meet the second element of the test of a “master meter
12 system” because Westover is not the “operator” of a pipeline system at this
13 complex. Westover purchases the gas within the boundaries of the
14 apartment complex in Pennsylvania and transports the gas within the
15 complex in Pennsylvania, where the gas is resold to building occupants.
16 Moreover, Westover’s purchase and re-sale of the gas does not increase the
17 amount of gas purchased and sold; Westover only purchases the amount of
18 gas that the building occupants would have purchased if they bought gas
19 directly from the NGDC. Additionally, Westover’s purchase and resale of
20 the gas is well downstream of any transaction in interstate or foreign
21 commerce and does not affect those prior transactions.

22 As explained above, in such a situation, the System does not
23 distribute gas “in or affecting interstate or foreign commerce.”

1 Consequently, the Commission should find that the System does not satisfy
2 all four parts of the definition of a “master meter system.”
3

4 **Q. DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT MAIN LINE**
5 **BERWYN?**

6 **A.** Yes. PECO will remove the existing meter and replace it with a meter on each building.
7 PECO will also take over all underground gas piping. A contract has been signed and the
8 work has commenced.
9

10 **LANSDOWNE TOWERS**

11 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT LANSDOWNE TOWERS IS NOT A**
12 **“MASTER METER SYSTEM.”**

13 **A.** A map of this System is attached as **Westover Exhibit PQ-20 (CONFIDENTIAL)**. At
14 this complex, gas is transferred from the NGDC to Westover at a meter in the complex.
15 Westover pipes the gas to each building in the complex, where Westover consumes some
16 of the gas (to produce hot water, which is distributed to building occupants). The remainder
17 of the gas is piped to building occupants (who use the gas for heating and for coin-operated
18 dryers (building occupants use electric for cooking)). Westover operates some
19 underground gas pipes at this complex. Building occupants pay Westover for the gas that
20 they consume based on actual usage, which is metered in each unit. The gas that Westover
21 consumes is treated like any other expense of operating the property, and is paid for through
22 rents.

1 This System does not meet the definition of a master meter system for the same
2 reasons as Park Court, Oak Forest, Gladstone Towers and Main Line Berwyn:

3 A. All gas facilities operated by Westover are located within the apartment
4 complex. I&E admits that all of Westover’s gas facilities at this complex
5 are located within the apartment complex. **Westover Exhibit PQ-5** p. 26.
6 This System therefore does not meet the first element of the test of a “master
7 meter system.”

8 B. This System does not meet the second element of the test of a “master meter
9 system” because Westover is not the “operator” of a pipeline system at this
10 complex. Westover purchases the gas within the boundaries of the
11 apartment complex in Pennsylvania and transports the gas within the
12 complex in Pennsylvania, where the gas is resold to building occupants.
13 Moreover, Westover’s purchase and re-sale of the gas does not increase the
14 amount of gas purchased and sold; Westover only purchases the amount of
15 gas that the building occupants would have purchased if they bought gas
16 directly from the NGDC. Additionally, Westover’s purchase and resale of
17 the gas is well downstream of any transaction in interstate or foreign
18 commerce and does not affect those prior transactions.

19 As explained above, in such a situation, the System does not
20 distribute gas “in or affecting interstate or foreign commerce.”
21 Consequently, the Commission should find that the System does not satisfy
22 all four parts of the definition of a “master meter system.”
23

1 **Q. DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT LANSDOWNE**
2 **TOWERS?**

3 **A.** Yes. We are currently considering two options. One is to switch from gas to electric at
4 this apartment complex. The alternative is having the NGDC remove the existing meter
5 and replacing it with meters for each unit. If we choose the second option, the project will
6 result in the NGDC transferring the gas directly to the building occupant. IN addition, if
7 we continue to use gas, the NGDC will take over all underground gas piping.

8 Extensive utility surveys need to be completed. Westover has signed the contract
9 to have a private company mark out the property so that the NGDC can complete its gas
10 design. Westover will decide which option to pursue after it receives a quote for each
11 option.

12

13 **HILLCREST**

14 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT HILLCREST IS NOT A “MASTER**
15 **METER SYSTEM.”**

16 **A.** A map of this System is attached as **Westover Exhibit PQ-21 (CONFIDENTIAL)**. At
17 this apartment complex, gas is transferred from the NGDC to Westover at a meter in the
18 complex. Westover then pipes the gas to each building, and ultimately to each unit.
19 Westover does not consume any gas at this complex; all gas purchased by Westover is
20 distributed and resold to building occupants (who use the gas for heating (they use electric
21 for hot water and cooking)). Westover operates some underground gas piping at this
22 complex. Building occupants pay Westover for the gas they consume through their rent.

1 This System does not meet the definition of a “master meter system” for the same
2 reasons as Park Court, Oak Forest, Gladstone Towers, Main Line Berwyn and Lansdowne
3 Towers:

4 A. All gas facilities operated by Westover are located within the apartment
5 complex. I&E admits that all of Westover’s gas facilities at this complex
6 are located within the apartment complex. **Westover Exhibit PQ-5** p. 27.
7 This System therefore does not meet the first element of the test of a “master
8 meter system.”

9 B. This System does not meet the second element of the test of a “master meter
10 system” because Westover is not the “operator” of a pipeline system at this
11 complex. Westover purchases the gas within the boundaries of the
12 apartment complex in Pennsylvania and transports the gas within the
13 complex in Pennsylvania, where the gas is resold to building occupants.
14 Moreover, Westover’s purchase and re-sale of the gas does not increase the
15 amount of gas purchased and sold; Westover only purchases the amount of
16 gas that the building occupants would have purchased if they bought gas
17 directly from the NGDC. Additionally, Westover’s purchase and resale of
18 the gas is well downstream of any transaction in interstate or foreign
19 commerce and does not affect those prior transactions.

20 As explained above, in such a situation, the System does not
21 distribute gas “in or affecting interstate or foreign commerce.”
22 Consequently, the Commission should find that the System does not satisfy
23 all four parts of the definition of a “master meter system.”

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Q. DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT HILLCREST?

A. Yes. We are currently considering two options. One is to switch from gas to electric at this apartment complex. The alternative is having PECO remove the existing meter and replacing it with meters for each unit. If we choose the second option, the project will result in the NGDC transferring the gas directly to the building occupant. In addition, if we continue to use gas, PECO will take over all underground gas piping.

Extensive utility surveys need to be completed. Westover has signed the contract to have a private company mark out the property so that PECO can complete its gas design. Westover will decide which option to pursue after it receives a quote for each option.

VALLEY STREAM

Q. PLEASE EXPLAIN WHY THE SYSTEM AT VALLEY STREAM IS NOT A “MASTER METER SYSTEM.”

A. A map of this System is attached as **Westover Exhibit PQ-22 (CONFIDENTIAL)**. At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover then pipes the gas to each building, where Westover consumes some of the gas (to produce hot water, which is distributed to building occupants) and pipes the remainder to building occupants (who consume the gas to produce heat, to run gas dryers in the units, and, in some cases, to cook). Westover operates some underground gas pipes at this complex. Building occupants pay Westover for the gas (both for the gas that Westover consumes and the gas that building occupants consume), through rent.

1 This System does not meet the definition of a master meter system for the same
2 reasons as Park Court, Oak Forest, Gladstone Towers, Main Line Berwyn, Lansdowne
3 Towers and Hillcrest:

4 A. All gas facilities operated by Westover are located within the apartment
5 complex. I&E admits that all of Westover’s gas facilities at this complex
6 are located within the apartment complex. **Westover Exhibit PQ-5** p. 29.
7 This System therefore does not meet the first element of the test of a “master
8 meter system.”

9 B. This System does not meet the second element of the test of a “master meter
10 system” because Westover is not the “operator” of a pipeline system at this
11 complex. Westover purchases the gas within the boundaries of the
12 apartment complex in Pennsylvania and transports the gas within the
13 complex in Pennsylvania, where the gas is resold to building occupants.
14 Moreover, Westover’s purchase and re-sale of the gas does not increase the
15 amount of gas purchased and sold; Westover only purchases the amount of
16 gas that the building occupants would have purchased if they bought gas
17 directly from the NGDC. Additionally, Westover’s purchase and resale of
18 the gas is well downstream of any transaction in interstate or foreign
19 commerce and does not affect those prior transactions.

20 As explained above, in such a situation, the System does not
21 distribute gas “in or affecting interstate or foreign commerce.”
22 Consequently, the Commission should find that the System does not satisfy
23 all four parts of the definition of a “master meter system.”

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Q. DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT VALLEY STREAM?

A. Yes. PECO will remove the existing meter and replace it with meters on each building. PECO will also take over all underground gas piping. A gas application has been submitted and PECO is working on the gas design.

CARLISLE PARK

Q. PLEASE EXPLAIN WHY THE SYSTEM AT CARLISLE PARK IS NOT A “MASTER METER SYSTEM.”

A. A map of this System is attached as **Westover Exhibit PQ-23 (CONFIDENTIAL)**. At this apartment complex, gas is transferred from the NGDC to Westover at a meter in the complex. Westover pipes the gas to each building, and then to each unit. Westover does not consume any gas at this apartment complex; Westover resells all gas to building occupants (who use the gas for heating and cooking (they use electric to produce hot water)). Westover operates some underground gas pipes at this complex. Building occupants pay Westover for the gas that they consume through rent.

This System does not meet the definition of a master meter system for the same reasons as Park Court, Oak Forest, Gladstone Towers, Main Line Berwyn, Lansdowne Towers, Hillcrest and Valley Stream:

A. All gas facilities operated by Westover are located within the apartment complex. I&E admits that all of Westover’s gas facilities at this complex are located within the apartment complex. **Westover Exhibit PQ-5 p. 31.**

1 This System therefore does not meet the first element of the test of a “master
2 meter system.”

3 B. This System does not meet the second element of the test of a “master meter
4 system” because Westover is not the “operator” of a pipeline system at this
5 complex. Westover purchases the gas within the boundaries of the
6 apartment complex in Pennsylvania and transports the gas within the
7 complex in Pennsylvania, where the gas is resold to building occupants.
8 Moreover, Westover’s purchase and re-sale of the gas does not increase the
9 amount of gas purchased and sold; Westover only purchases the amount of
10 gas that the building occupants would have purchased if they bought gas
11 directly from the NGDC. Additionally, Westover’s purchase and resale of
12 the gas is well downstream of any transaction in interstate or foreign
13 commerce and does not affect those prior transactions.

14 As explained above, in such a situation, the System does not
15 distribute gas “in or affecting interstate or foreign commerce.”
16 Consequently, the Commission should find that the System does not satisfy
17 all four parts of the definition of a “master meter system.”

18
19 **Q. DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT CARLISLE**
20 **PARK?**

21 **A.** Yes. UGI will remove the existing meter and replace it with a meter at each building. UGI
22 will also take over all underground gas piping. UGI is currently working on the gas design.

23

1 **MILL CREEK VILLAGE**

2 **Q. PLEASE DESCRIBE THE MILL CREEK VILLAGE APARTMENT COMPLEX.**

3 **A.** Westover operates two Mill Creek Village apartment complexes: Mill Creek Village I and
4 Mill Creek Village II. They are adjacent to each other, but the gas systems are different at
5 the two complexes.

6

7 **Q. PLEASE EXPLAIN WHY THE SYSTEM AT MILL CREEK VILLAGE I IS NOT**
8 **A “MASTER METER SYSTEM.”**

9 **A.** A map of the Systems at Mill Creek Village I and Mill Creek Village II is attached as
10 **Westover Exhibit PQ-24 (CONFIDENTIAL)**. At Mill Creek Village I, gas is transferred
11 from the NGDC to Westover at a meter in the complex. Westover pipes the gas to buildings
12 in the complex, where Westover consumes some of the gas (to produce heat and hot water,
13 which is distributed to building occupants) and pipes the remainder of the gas to building
14 occupants (who use it for cooking). Westover operates some underground gas piping at
15 this apartment complex. Building occupants pay Westover for the gas (both the gas
16 consumed by Westover and the gas consumed by the building occupant) in their rent.

17 This System does not meet the definition of a master meter system for the same
18 reasons as Park Court, Oak Forest, Gladstone Towers, Main Line Berwyn, Lansdowne
19 Towers, Hillcrest, Valley Stream and Carlisle Park:

20 **A.** All gas facilities operated by Westover are located within the apartment
21 complex. I&E admits that all of Westover’s gas facilities at this complex
22 are located within the apartment complex. **Westover Exhibit PQ-5 p. 8.**

1 This System therefore does not meet the first element of the test of a “master
2 meter system.”

3 B. This System does not meet the second element of the test of a “master meter
4 system” because Westover is not the “operator” of a pipeline system at this
5 complex. Westover purchases the gas within the boundaries of the
6 apartment complex in Pennsylvania and transports the gas within the
7 complex in Pennsylvania, where the gas is resold to building occupants.
8 Moreover, Westover’s purchase and re-sale of the gas does not increase the
9 amount of gas purchased and sold; Westover only purchases the amount of
10 gas that the building occupants would have purchased if they bought gas
11 directly from the NGDC. Additionally, Westover’s purchase and resale of
12 the gas is well downstream of any transaction in interstate or foreign
13 commerce and does not affect those prior transactions.

14 As explained above, in such a situation, the System does not
15 distribute gas “in or affecting interstate or foreign commerce.”
16 Consequently, the Commission should find that the System does not satisfy
17 all four parts of the definition of a “master meter system.”

18
19 **Q, DOES WESTOVER EXPECT TO CHANGE THE SYSTEM AT MILL CREEK**
20 **VILLAGE I?**

21 **A.** Yes. PECO will remove the existing meter and replace it with a meter on each building.
22 In addition, PECO will take over the underground gas piping. Westover has submitted an
23 application to PECO, which is working on designing the changes.

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Q. PLEASE EXPLAIN WHY THE SYSTEM AT MILL CREEK VILLAGE II IS NOT A “MASTER METER SYSTEM.”

A. At Mill Creek Village II, gas is transferred from the NGDC to Westover at a meter on each building. **Westover Exhibit PQ-24.** Westover consumes some of the gas (to produce heat and hot water, which is distributed to building occupants) and pipes the remainder of the gas to building occupants (who use it for cooking). All of Westover’s distribution piping is located inside a building; Westover does not operate any exterior or underground pipes at this apartment complex. Building occupants pay Westover for the gas (both the gas consumed by Westover and the gas consumed by building occupants) in their rent.

This System does not meet the test of a “master meter system” for the same reasons as Woodland Plaza, Fox Run, Country Manor and Norriton East:

- A. All gas facilities operated by Westover are located within the apartment complex. I&E admits that all of Westover’s gas facilities at this complex are located within the apartment complex. **Westover Exhibit PQ-5** p. 9. This System therefore does not meet the first element of the test of a “master meter system.”
- B. Westover’s distribution system is entirely comprised of piping inside a building. As discussed above, the Commission should find that such a system is not a “master meter system.”
- C. This System does not meet the second element of the test of a “master meter system” because Westover is not the “operator” of a pipeline system at this complex. Westover purchases the gas within the boundaries of the

1 apartment complex in Pennsylvania and transports the gas within the
2 complex in Pennsylvania, where the gas is resold to building occupants.
3 Moreover, Westover’s purchase and re-sale of the gas does not increase the
4 amount of gas purchased and sold; Westover only purchases the amount of
5 gas that the building occupants would have purchased if they bought gas
6 directly from the NGDC. Additionally, Westover’s purchase and resale of
7 the gas is well downstream of any transaction in interstate or foreign
8 commerce and does not affect those prior transactions.

9 As explained above, in such a situation, the System does not
10 distribute gas “in or affecting interstate or foreign commerce.”
11 Consequently, the Commission should find that the System does not satisfy
12 all four parts of the definition of a “master meter system.”
13

14 **PAOLI PLACE**

15 **Q. PLEASE DESCRIBE THE PAOLI PLACE APARTMENT COMPLEX.**

16 **A.** Paoli Place is comprised of (a) Paoli North, located at 27 East Central Avenue in Paoli,
17 Pennsylvania, (b) Paoli South, located at 55 and 77 South Valley Road, Paoli,
18 Pennsylvania, and (c) Paoli South Valley Townhomes, located at 50 South Valley Road,
19 Paoli, Pennsylvania.

20
21 **Q. PLEASE DESCRIBE THE SYSTEM AT PAOLI NORTH.**

22 **A.** A map of this System is attached as **Westover Exhibit PQ-25 (CONFIDENTIAL)**. At
23 Paoli North, Buildings A-K, gas is transferred from the NGDC to Westover at a meter on

1 the buildings. Westover consumes some of the gas (to produce hot water, which is
2 distributed to building occupants) and pipes the remainder of the gas to building occupants
3 (who use the gas for heating and cooking). All pipes that Westover uses to distribute gas
4 to building occupants are located inside a building. Westover operates no exterior or
5 underground pipes at this location. Building occupants pay Westover for the gas they
6 consume based on actual usage, which is metered in each unit. The gas that Westover
7 consumes is treated like any other expense of operating the property, and is paid for through
8 rents.

9 This System does not meet the test of a “master meter system” for the same reasons
10 as Woodland Plaza, Fox Run, Country Manor, Norriton East and Mill Creek Village II:

11 A. All gas facilities operated by Westover are located within the apartment
12 complex. I&E admits that all of Westover’s gas facilities at this complex
13 are located within the apartment complex. **Westover Exhibit PQ-14** p. 11.

14 This System therefore does not meet the first element of the test of a “master
15 meter system.”

16 B. Westover’s distribution system is entirely comprised of piping inside a
17 building. As discussed above, the Commission should find that such a
18 system is not a “master meter system.”

19 C. This System does not meet the second element of the test of a “master meter
20 system” because Westover is not the “operator” of a pipeline system at this
21 complex. Westover purchases the gas within the boundaries of the
22 apartment complex in Pennsylvania and transports the gas within the
23 complex in Pennsylvania, where the gas is resold to building occupants.

1 Moreover, Westover’s purchase and re-sale of the gas does not increase the
2 amount of gas purchased and sold; Westover only purchases the amount of
3 gas that the building occupants would have purchased if they bought gas
4 directly from the NGDC. Additionally, Westover’s purchase and resale of
5 the gas is well downstream of any transaction in interstate or foreign
6 commerce and does not affect those prior transactions.

7 As explained above, in such a situation, the System does not
8 distribute gas “in or affecting interstate or foreign commerce.”
9 Consequently, the Commission should find that the System does not satisfy
10 all four parts of the definition of a “master meter system.”

11 At Paoli North, Buildings L-R, gas is transferred from the NGDC to building
12 occupants at meters located at a meter bank on the apartment building. Underground pipes
13 take the gas from the meter bank to individual units, where building occupants consume it
14 for heat and hot water (they use electric for cooking). Westover does not purchase gas
15 from the NGDC, nor does Westover resell any gas to building occupants. Westover does
16 not distribute gas to building occupants because building occupants buy their gas directly
17 from the NGDC. Building occupants pay the NGDC directly for their gas.

18 This System does not meet the definition of a “master meter system” for the same
19 reasons as the System at Willow Run:

20 A. The first element of the definition of a “master meter system” requires that
21 the system have a pipeline system for distributing gas within, but not limited
22 to, a definable area, such as an apartment complex. I&E admits that all of
23 Westover’s gas facilities at Paoli North, Buildings L-R, are located within

1 the apartment complex. **Westover Exhibit PQ-3**, p. 3. Since Westover's
2 System is within, but limited to, the apartment complex, it does not meet
3 the first element of the definition of a "master meter system."

4 B. The third element of the definition of a "master meter system" requires the
5 operator of the system to buy gas from an outside source. Westover does
6 not purchase gas from an NGDC at Paoli North, Buildings L-R. Instead,
7 the NGDC sells the gas directly to building occupants.

8 C. The fourth element of the definition of a "master meter system" requires the
9 operator of the system to distribute gas to, and resell gas to, the ultimate
10 consumer of the gas. At Paoli North, Buildings L-R, Westover does not
11 distribute gas or resell gas to anyone. The gas is transferred directly from
12 the NGDC to the building occupants at the meters.

13 D. The fourth element of the definition of a "master meter system" requires
14 that the building occupant purchase the gas from Westover. At this
15 apartment complex, building occupants pay the NGDC directly.
16

17 **Q. PLEASE DESCRIBE THE SYSTEM AT SOUTH VALLEY TOWNHOMES.**

18 A. A map of this System is attached as **Westover Exhibit PQ-26 (CONFIDENTIAL)**. At
19 this apartment complex, gas is transferred from the NGDC to residents at a meter bank on
20 each apartment building. Underground pipes take the gas from the meter bank to individual
21 units, where building occupants consume the gas for heat and hot water (they use electric
22 for cooking). Westover does not purchase gas from the NGDC, nor does Westover resell
23 any gas to building occupants. Westover does not distribute gas to building occupants

1 because building occupants buy their gas directly from the NGDC. Building occupants
2 pay the NGDC (not Westover) for their gas.

3 This System does not meet the definition of a “master meter system” for the same
4 reasons as the Systems at Willow Run and Paoli North Buildings L-R:

5 A. The first element of the definition of a “master meter system” requires that
6 the system have a pipeline system for distributing gas within, but not limited
7 to, a definable area, such as an apartment complex. I&E admits that all of
8 Westover’s gas facilities at South Valley Townhomes are located within the
9 apartment complex. **Westover Exhibit PQ-3** p. 4. Since Westover’s
10 System is within, but limited to, the apartment complex, it does not meet
11 the first element of the definition of a “master meter system.”

12 B. The third element of the definition of a “master meter system” requires the
13 operator of the system to buy gas from an outside source. Westover does
14 not purchase gas from an NGDC at South Valley Townhomes. Instead, the
15 NGDC sells the gas directly to building occupants.

16 C. The fourth element of the definition of a “master meter system” requires the
17 operator of the system to distribute gas to and resell gas to the ultimate
18 consumer of the gas. At South Valley Townhomes, Westover does not
19 distribute gas or resell gas to anyone. The gas is transferred directly from
20 the NGDC to the building occupants at the meters.

21 D. The fourth element of the definition of a “master meter system” requires
22 that the building occupant purchase the gas from Westover. At this
23 apartment complex, building occupants pay the NGDC directly.

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Q. PLEASE DESCRIBE THE SYSTEM AT PAOLI SOUTH.

A. A map of this System is attached as **Westover Exhibit PQ-27 (CONFIDENTIAL)**. At Paoli South, Buildings A-D (labeled on the attached map as 77 South Valley Road), gas is transferred from the NGDC to Westover at meters on the buildings. Westover consumes some of the gas (to produce heat and hot water, which is distributed to building occupants) and pipes the remainder of the gas to units in the building (who use it for cooking). Virtually all of the pipes that Westover uses to distribute gas to building occupants are located inside a building; the only exterior piping at this complex is a few feet of pipe from the meter to the wall of the building. Westover does not operate any underground pipes at Paoli South, Buildings A-D. Building occupants pay the NGDC directly for the gas used for cooking based on actual usage, which is metered in each unit. The gas that Westover consumes is treated like any other expense of operating the property, and is paid for through rents.

This System does not meet the test of a “master meter system” for the same reasons as Woodland Plaza, Fox Run, Country Manor, Norriton East and Mill Creek Village II:

- A. All gas facilities operated by Westover are located within the apartment complex. I&E admits that all of Westover’s gas facilities at this complex are located within the apartment complex. **Westover Exhibit PQ-14** p. 13. This System therefore does not meet the first element of the test of a “master meter system.”
- B. Virtually all of Westover’s distribution system is comprised of piping inside a building. As discussed above, with reference to the Systems at Woodland

1 Plaza and Country Manor, the only exterior piping is a few feet of pipe from
2 the meter to the wall of the building – which is located entirely within the
3 apartment complex. Therefore, Westover’s System still does not meet the
4 definition of a “master meter system.”

5 C. This System does not meet the second element of the test of a “master meter
6 system” because Westover is not the “operator” of a pipeline system at this
7 complex. Westover purchases the gas within the boundaries of the
8 apartment complex in Pennsylvania and transports the gas within the
9 complex in Pennsylvania, where the gas is resold to building occupants.
10 Moreover, Westover’s purchase and re-sale of the gas does not increase the
11 amount of gas purchased and sold; Westover only purchases the amount of
12 gas that the building occupants would have purchased if they bought gas
13 directly from the NGDC. Additionally, Westover’s purchase and resale of
14 the gas is well downstream of any transaction in interstate or foreign
15 commerce and does not affect those prior transactions.

16 As explained above, in such a situation, the System does not
17 distribute gas “in or affecting interstate or foreign commerce.”
18 Consequently, the Commission should find that the System does not satisfy
19 all four parts of the definition of a “master meter system.”

20 At Paoli South Buildings E-H (labeled on the map as 55 South Valley Road),
21 **Westover Exhibit PQ-27**, gas is transferred from the NGDC to Westover at a meter in the
22 complex. Westover pipes the gas to the buildings, where it consumes some of the gas (to
23 produce heat and hot water) and pipes the remainder of the gas to building occupants.

1 Westover operates some underground pipes in this complex. Building occupants pay
2 Westover for the gas that Westover consumes through rent.

3 This System does not meet the definition of a master meter system for the same
4 reasons as the Systems at Oak Forest, Gladstone Towers, Main Line Berwyn, Lansdowne
5 Towers, Hillcrest, Valley Stream, and Mill Creek Village I:

6 A. All gas facilities operated by Westover are located within the apartment
7 complex. I&E admits that all of Westover’s gas facilities at this complex
8 are located within the apartment complex. **Westover Exhibit PQ-14** p. 13.
9 This System therefore does not meet the first element of the test of a “master
10 meter system.”

11 B. This System does not meet the second element of the test of a “master meter
12 system” because Westover is not the “operator” of a pipeline system at this
13 complex. Westover purchases the gas within the boundaries of the
14 apartment complex in Pennsylvania and transports the gas within the
15 complex in Pennsylvania, where the gas is resold to building occupants.
16 Moreover, Westover’s purchase and re-sale of the gas does not increase the
17 amount of gas purchased and sold; Westover only purchases the amount of
18 gas that the building occupants would have purchased if they bought gas
19 directly from the NGDC. Additionally, Westover’s purchase and resale of
20 the gas is well downstream of any transaction in interstate or foreign
21 commerce and does not affect those prior transactions.

22 As explained above, in such a situation, the System does not
23 distribute gas “in or affecting interstate or foreign commerce.”

1 Consequently, the Commission should find that the System does not satisfy
2 all four parts of the definition of a “master meter system.”

3
4 **Q. DOES WESTOVER EXPECT TO MAKE CHANGES IN THE SYSTEM AT PAOLI**
5 **SOUTH?**

6 **A.** Yes. PECO will install a new gas main to serve Buildings E-H. PECO will also remove
7 the existing meter and instead install meters at each building. At each building, Westover
8 will continue to consume some of the gas and pipe the remainder to building occupants.
9 Westover has a signed agreement with PECO for this work.

10
11 **BRYN MAWR MEDICAL BUILDING**

12 **Q. WESTOVER’S ACT 127 REGISTRATION INCLUDES THE “BRYN MAWR**
13 **MEDICAL BUILDING,” LOCATED AT 600 HAVERFORD ROAD AND 931**
14 **HAVERFORD ROAD, HAVERFORD, PENNSYLVANIA. PLEASE DESCRIBE**
15 **THESE SYSTEMS.**

16 **A.** The “Bryn Mawr Medical Building” listed on the Act 127 Registration is actually two
17 separate commercial properties. They are not located on adjacent properties; they are
18 located on opposite sides of the road several blocks from each other. For ease of reference,
19 we refer to them as “the Bryn Mawr Medical Building” but they are two separate
20 commercial properties with two separate gas systems.

21 A map of 931 Haverford Road is attached as **Westover Exhibit PQ-28**
22 **(CONFIDENTIAL)**. At this building, the gas is transferred from the NGDC to Westover
23 at a meter on the building. Westover burns all of the gas (Westover distributes heat and
24 hot water to building occupants). Westover does not resell gas to building occupants.

1 Westover does not distribute gas to building occupants because building occupants do not
2 burn gas. Westover does not operate any underground gas pipes at this location. All of
3 Westover's gas facilities and equipment are located within the boundaries of the property
4 at 931 Haverford Road. Building occupants pay Westover for the gas that Westover
5 consumes based on RUBS.

6 A map of 600 Haverford Road is attached as **Westover Exhibit PQ-29**
7 **(CONFIDENTIAL)**. At this building, the gas is transferred from the NGDC to Westover
8 at a meter on the building. Westover burns all of the gas and supplies heat to building
9 occupants. Westover does not resell gas to building occupants. Westover does not
10 distribute gas to building occupants because building occupants do not burn gas. Westover
11 does not operate any exterior or underground gas pipes at this location. All of Westover's
12 gas facilities and equipment are located within the boundaries of the property at 600
13 Haverford Road. Building occupants pay Westover for the gas that it consumes based on
14 RUBS.

15
16 **Q. IS THE SYSTEM AT 931 HAVERFORD ROAD, OR THE SYSTEM AT 600**
17 **HAVERFORD ROAD, A "MASTER METER SYSTEM?"**

18 **A.** No, neither the System at 931 Haverford Road nor the System at 600 Haverford Road is a
19 "master meter system," for the same reasons that the Systems at Lansdale Village, Concord
20 Court, and Black Hawk are not "master meter systems:"

21 A. All gas facilities operated by Westover are located within the boundaries of
22 the property. As explained above, in this situation, the first element of the
23 test of a "master meter system" is not satisfied.

1 repaired by repacking the gas shutoffs with grease. Gas to residents did not need to be shut
2 off due to these leaks. **Westover Exhibit PQ-30** p. 2.

3 In my opinion, I&E personnel blew this incident out of proportion. The UGI
4 personnel with whom I spoke characterized the leaks as minor. However, two of the
5 Westover employees on site, who I supervise, reported to me that Mr. Orr from I&E had
6 advised him that the incident was a “Grade C Emergency.” In discovery, Mr. Orr admitted
7 that he does not know what the term means. **Westover Exhibit PQ-30** p. 3. This same
8 employee reported that he overheard Mr. Orr suggesting to his supervisor, Ms. Terri
9 Cooper-Smith (who was also on site) that the fire department should be summoned to the
10 scene. Ms. Cooper-Smith said to wait until UGI personnel arrived. After they arrived, and
11 determined that the incident involved minor leaks, I&E personnel decided that there was
12 no need to call the fire department.

13 At Gladstone Towers, I&E inspectors smelled gas near the two PECO meters in the
14 complex. They called PECO to the scene. I called our contractors (Miller Brothers and
15 Heath Consultants) to the scene. When the PECO technician arrived, and tested for leaks,
16 Mr. Orr told him to call his supervisor, who then came to the scene. Two leaks were found
17 in above-ground piping, on Westover’s side of the meter, within about four feet of the
18 meter, and a third (larger) leak was found on PECO’s relief valve. Gas to residents was
19 turned off and Westover provided building occupants with heaters.

20 The leaks were discovered at approximately 4:00 p.m. on Wednesday, January 18,
21 2023. Repair work was performed until approximately 9:00 p.m. and was continued
22 beginning at 6:45 a.m. on Thursday, January 19, 2023. Repairs were completed, the
23 repaired lines were air tested and PECO was called to restore service. Our leak survey

1 consultant, Heath Consultants, was onsite to perform the leak survey, but needed to have
2 the gas turned on to perform the leak survey.

3 A representative of the Pipeline Safety Division arrived at approximately 10:00
4 a.m. At approximately 10:30 a.m., this representative called PECO and told PECO not to
5 restore gas service. He instructed our consultant Miller Brothers to disassemble the
6 repaired gas piping, and to perform the work (including the air test) a second time, so he
7 could observe and approve what was done. This work was completed by about 12:45 p.m.

8 The PUC representative instructed one of my employees that gas service could not
9 be restored until two leak surveys were performed within 24 hours. He said that a total of
10 three leak surveys were required (one on the day the repairs were completed, one the
11 following day, and one a week later).⁴ We advised him that applicable municipal codes
12 prohibit heat and hot water from being turned off for more than 24 hours. We were able to
13 restore gas service within 24 hours.

14 The PUC representative asked my employee if my employee had completed
15 Operator Qualification (“OQ”) training from the U.S. Department of Transportation, which
16 he had not. This question irritated my employee because he had the same conversation
17 with the PUC representative about three and a half hours earlier. My employee reminded
18 him that our contractor (Miller Brothers) is OQ certified – a point that had also been
19 discussed several hours earlier.

20 About 2:00 p.m., the PUC representative told my employee that Westover would
21 need to have an OQ certified professional purge and relight the pilot light on each gas stove
22 in the apartment complex. He also told my employee that the PUC representative needed

⁴ An employee of our leak survey contractor, Heath Consultants, told me that he had never been required to perform three leak surveys where, as here, no underground piping was repaired.

1 to go into the buildings (including into occupied apartments) to verify that the appliances
2 were purged and relighted by an OQ certified professional.

3 The PUC representative also asked to see our abnormal operating conditions plan.
4 Miller Brothers gave him its plan, which the PUC representative reviewed. The process of
5 purging and relighting the stoves was completed by about 3:00 p.m. At approximately
6 4:30 p.m., the first leak survey was completed. No leaks were found. A second leak survey
7 was completed on Wednesday, January 25, 2023, and no leaks were found.

8 In my view, this incident involved a straightforward repair of an above ground pipe.
9 Westover quickly responded to the report of the leak, calling its federally-certified
10 contractor to perform the repairs. A qualified professional completed the repairs in a timely
11 manner. We would have been able to complete the repairs and restore gas service to
12 building occupants quicker, however, but for the actions of the Pipeline Safety Division.
13 For example, we were not told of the need to have a PUC representative on site to observe
14 the repairs, and the PUC representative did not arrive on site until 10:00 a.m. on January
15 19, 2023. At that time, we were instructed to disassemble the repaired pipe and perform
16 the work a second time, which further delayed restoring service to building occupants. Our
17 qualified contractor performed the same work, the same way he did the first time, so this
18 extra step did not enhance safety to building occupants.

19 Personally, I think the Pipeline Safety Division again overreacted. I cannot believe
20 that when the General Assembly passed Act 127, it intended to require the owner/operator
21 of an apartment building to get a federally-certified professional to relight the pilot light on
22 a gas stove. Moreover, in my opinion, having a Commission employee enter every

1 apartment to watch this professional re-light the pilot light on a stove imposes on the
2 privacy of our tenants without improving public safety.

3 My colleague, Alexander Stefanelli, discusses the impact that a Commission
4 decision in this proceeding would have, if the Commission finds that Act 127 makes
5 apartment complexes subject to the Federal pipeline safety laws. Westover's experience
6 trying to repair the Gladstone Towers System provides further insight into the impact of a
7 Commission decision finding that Act 127 makes apartment complexes subject to the
8 Federal pipeline safety laws. If thousands of apartment owners/operators would suddenly
9 become subject to Act 127, and cannot perform repairs on their gas systems until PUC
10 personnel are on site to observe, the Pipeline Safety Division will need to staff up
11 substantially so they can get to job sites in a more timely manner. This is going to result
12 in increased assessments to pipeline operators.

13 Additionally, I seriously doubt that many apartment owner/operators in
14 Pennsylvania have OQ-certified personnel on staff, or have OQ-certified contractors on
15 call, to complete routine repairs, such as those required at Gladstone Towers. . For
16 example, based on my experience, few, if any, OQ-certified contractors are located in
17 Cumberland County. Necessary repairs could be delayed in the middle of winter, resulting
18 in lengthy gas outages for residents. This would not be in the public interest.

19
20 **CONCLUSION**

21 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

22 **A.** Yes. However, I reserve the right to supplement my testimony as additional issues or facts
23 arise during the course of this proceeding. Thank you.

WESTOVER EXHIBIT PQ-1
MAY 23, 2022 CORRESPONDENCE FROM WESTOVER'S
COUNSEL TO I&E'S COUNSEL



May 23, 2022

VIA E-MAIL

David P. Zambito

Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

Stephanie M. Wimer
Senior Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120

Re: Investigation of Westover Property Management Company, L.P. d/b/a Westover Companies Relating to Possible Violations of Chapter 13 of the Public Utility Code; Bp8CaselD# 3025977

Incident at Hillcrest Apartments

Dear Ms. Wimer:

On May 9, 2022, Westover Property Management Company, L.P., d/b/a Westover Companies ("Westover") became aware of a natural gas leak at the Hillcrest Apartments. The leak was located on the rear side of Building C, facing Building G. The resident reported the leak to PECO Energy Company. The leak caused an outage of natural gas service.

The leak was caused by deteriorated galvanized piping. A contractor repaired the leak by cutting back to the plastic gas piping and removing all the deteriorated piping. The Contractor also installed a repair coupling and 10' of new plastic pipe with a new valve. The repaired line was tested to 100 pounds of pressure. Gas was then restored and the complex was purged. A leak survey was subsequently performed, and the system passed.

Please contact me if you have any questions or concerns.

Respectfully,

Cozen O'Connor

David P. Zambito
Counsel for *Westover Property Management Company, L.P. d/b/a Westover Companies*

DPZ:kmg

WESTOVER EXHIBIT PQ-3
I&E'S ANSWERS TO WESTOVER'S REQUESTS FOR
ADMISSION – SET II



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 8, 2023

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Response to Westover Requests for Admission - Set II

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Responses to the Requests for Admission - Set II of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads 'Kayla L. Rost'.

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/jfm
Enclosures

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**RESPONSES OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO THE REQUESTS FOR ADMISSION - SET II OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to 52 Pa. Code § 5.350, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Responses to the Requests for Admission- Set II of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

1. With regard to the Willow Run apartments:
 - a. The natural gas distribution company delivers gas directly to a meter for each apartment.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.
 - e. All of Westover's gas facilities are located within the apartment complex.

Response:

With regard to the Willow Run apartments:

- a. **Admit.**
- b. **Denied. By way of further response, an office is located at Willow Run Apartments which may or may not use gas.**
- c. **Admit.**
- d. **Admit.**
- e. **Admit.**

2. With regard to the Paoli Place apartments North (Buildings L-R): All of Westover's gas facilities are located within the apartment complex.

Response:

To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.

3. With respect to Paoli Place, South Valley Townhomes: All of Westover's gas facilities are located within the apartment complex.

Response:

To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.

4. With regard to the Paoli Place apartments South (Buildings A-D):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. All of Westover's gas facilities are located within a building or buildings.

Response:

With regard to the Paoli Place apartments South (Buildings A-D), which I&E believes is located at 55 and 77 South Valley Street:

- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
- b. **Admit.**
- c. **Admit.**
- d. **Admit.**
- e. **Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

5. With regard to Paoli Place apartments South (Buildings E-H):
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.

Response:

With regard to the Paoli Place apartments South (Buildings E-H) which I&E believes is located at 55 and 77 South Valley Street:

- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
- b. **Admit.**
- c. **Admit.**
- d. **Admit.**

6. With regard to the Norriton East apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. All of Westover's gas facilities are located within a building or buildings.

Response:

With regard to the Norriton East apartments:

- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
- b. **Admit.**
- c. **Admit.**
- d. **Admit.**
- e. **Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

7. With regard to the Bryn Mawr Medical Building at 600 Haverford Avenue, Haverford, Pennsylvania:
- a. All of Westover's gas facilities are located within the boundaries of the property at 600 Haverford Avenue.
 - b. All of Westover's gas facilities are located within the building at 600 Haverford Avenue.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes all of the gas purchased from the natural gas distribution company.
 - e. Westover does not distribute gas to any building occupants.
 - f. None of Westover's facilities are located underground.

Response:

I&E objects to this request because it exceeds the scope of permissible discovery in Commission proceedings. Section 5.321(c) of the Commission's regulations permits a party to:

obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c).

Information related to I&E's informal investigations of master meter systems at apartment complexes not identified in the Complaint or Westover's Answer and

Amended Petition are protected from disclosure by the attorney-client and deliberative process privileges. The attorney-client privilege extends to any referral from the I&E Safety Division to the I&E Enforcement Division, *i.e.*, the prosecuting attorneys, for professional legal consultation and evaluation of matters pertaining to master meter systems that were investigated by the I&E Safety Division as it relates to their enforcement or potential enforcement. The deliberative process privilege also protects these documents from disclosure as they contain confidential deliberations of law and reflect opinions, recommendations or advice.

Moreover, Deputy Chief Administrative Law Judge Christopher Pell found that Interrogatories not related to the specific apartment complexes identified in I&E's Complaint and addressed by Westover in its Answer and Amended Petition are beyond the scope of this proceeding. *See* Interim Order Addressing Motions to Compel Filed by Westover Property Management Company, L.P. and the Bureau of Investigation and Enforcement, dated October 25, 2022. Since requests for admissions are subject to the same limitations of interrogatories, namely within the scope of 52 Pa. Code §§ 5.321-5.324, and Bryn Mawr Medical Building is not identified in those pleadings, this request is inappropriate and in blatant disregard for Deputy Chief ALJ Pell's Interim Order.

8. With regard to the Bryn Mawr Medical Building at 931 Haverford Avenue, Haverford, Pennsylvania:
- a. All of Westover's gas facilities are located within the boundaries of the property at 931 Haverford Avenue.
 - b. All of Westover's gas facilities are located within the building at 931 Haverford Avenue.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes all of the gas purchased from the natural gas distribution company.
 - e. Westover does not distribute gas to any building occupants.
 - f. None of Westover's facilities are located underground.

Response:

I&E objects to this request because it exceeds the scope of permissible discovery in Commission proceedings. Section 5.321(c) of the Commission's regulations permits a party to:

obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

52 Pa. Code § 5.321(c).

Information related to I&E's informal investigations of master meter systems at apartment complexes not identified in the Complaint or Westover's Answer and

Amended Petition are protected from disclosure by the attorney-client and deliberative process privileges. The attorney-client privilege extends to any referral from the I&E Safety Division to the I&E Enforcement Division, *i.e.*, the prosecuting attorneys, for professional legal consultation and evaluation of matters pertaining to master meter systems that were investigated by the I&E Safety Division as it relates to their enforcement or potential enforcement. The deliberative process privilege also protects these documents from disclosure as they contain confidential deliberations of law and reflect opinions, recommendations or advice.

Moreover, Deputy Chief Administrative Law Judge Christopher Pell found that Interrogatories not related to the specific apartment complexes identified in I&E's Complaint and addressed by Westover in its Answer and Amended Petition are beyond the scope of this proceeding. *See* Interim Order Addressing Motions to Compel Filed by Westover Property Management Company, L.P. and the Bureau of Investigation and Enforcement, dated October 25, 2022. Since requests for admissions are subject to the same limitations of interrogatories, namely within the scope of 52 Pa. Code §§ 5.321-5.324, and Bryn Mawr Medical Building is not identified in those pleadings, this request is inappropriate and in blatant disregard for Deputy Chief ALJ Pell's Interim Order.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Responses of the Bureau of Investigation and Enforcement to the Requests for Admission - Set II of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*

Kayla L Rost

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

Dated: February 8, 2023



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
EFILED - FILING DETAIL

Date Created	Filing Number
2/8/2023	2456288

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251

Case Description:

Transmission Date: 2/8/2023 3:07 PM

Filed On: 2/8/2023 3:07 PM

eFiling Confirmation Number: 2456288

File Name	Document Type	Upload Date
C-2022-3030251 (Westover) I&E Resp to Westover Req for Admission - Set II CL&COS.pdf	Certificate of Service	2/8/2023 3:07:20 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

WESTOVER EXHIBIT PQ-5
I&E'S RESPONSES TO WESTOVER'S
REQUESTS FOR ADMISSION – SET I



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

December 27, 2022

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Response to Westover Requests for Admission - Set I

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Responses to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/ac
Enclosures

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**RESPONSES OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO THE REQUESTS FOR ADMISSION - SET I OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to 52 Pa. Code § 5.350, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Responses to the Requests for Admission- Set I of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

1. With regard to the Willow Run apartments:
 - a. The natural gas distribution company delivers gas directly to a meter for each apartment.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

1. **With regard to the Willow Run apartments:**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - d. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

2. With regard to the Woodland Plaza apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. None of Westover's gas facilities are located underground.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes some of the gas purchased from the natural gas distribution company.
 - e. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - f. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - g. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.
 - h. All of the leaks found during I&E's inspection of Woodland Plaza on November 15, 2022 were on the natural gas distribution company's side of the gas meter.

Response:

2. **With regard to the Woodland Plaza apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit.**
 - f. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor**

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus the maps are not sufficient to enable I&E to admit or deny.

g. Admit.

h. I&E objects to this request because the statement is not relevant. Pursuant to Section 5.350, “A party may serve upon another party a written request for the admission of the truth of any matters, *within the scope of §§ 5.321—5.324 (relating to general discovery).*” 52 Pa. Code § 5.350 (emphasis added). Under Section 5.321, a party cannot obtain discovery unless it is relevant to the subject matter involved in the pending action. 52 Pa. Code § 5.321(c). The location of the leaks is not relevant to the subject matter of this pending action, i.e., (1) whether the Commission has jurisdiction over master meter systems pursuant the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 et seq. (“Act 127”) and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015, and (2) whether Westover is a pipeline operator, as defined in 58 P.S. § 801.102, in that it operates master meter systems, as defined in 49 CFR § 191.3, at its apartment complexes and whether Westover is compliant with Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015.

3. With regard to the Park Court apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

3. **With regard to the Park Court apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit in part, deny in part. Westover resells gas for use in its leasing office, the individuals who use the leasing office are not tenants.**

4. With regard to the Country Manor apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Response:

4. **With regard to the Country Manor apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.**
 - f. **Admit.**

5. With regard to the Mill Creek Village I apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

5. **With regard to the Mill Creek Village I apartments:**
 - a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit in part, deny in part. Westover resells gas for use in its office building, the individuals who use the office building are not tenants.**

6. With regard to the Mill Creek Village II apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Response:

6. **With regard to the Mill Creek Village II apartments:**
 - a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit in part, deny in part. Westover resells gas for use in its office building, the individuals who use the office building are not tenants.**
 - f. **Admit.**

7. With regard to the Lansdale Village apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover consumes all of the gas purchased from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

7. **With regard to the Lansdale Village apartments:**
 - a. **Admit.**
 - b. **Deny.**
 - c. **Deny. Westover charges tenants for gas through an allocation based upon square footage of the unit and the number of persons residing in the unit.**
 - d. **Deny.**

8. With regard to the Black Hawk apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover consumes all of the gas purchased from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

8. **With regard to the Black Hawk apartments:**
- a. **Admit.**
 - b. **Deny.**
 - c. **Deny. Westover resells gas to its tenants who pay for gas through rent.**
 - d. **Deny.**

9. With regard to the Paoli Place apartments (North Buildings A-K):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Response:

9. **With regard to the Paoli Place apartments (North Buildings A-K):**
 - a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E**

to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

f. Admit.

10. With regard to the Paoli Place apartments (North Buildings L-R and South Valley Townhomes):
- a. The natural gas distribution company delivers gas to a meter on the building and each apartment has a submeter to calculate the gas bill.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas to residents.
 - e. Tenants pay the NGDC for the gas used.

Response:

10. **With regard to the Paoli Place apartments (North Buildings L-R and South Valley Townhomes):**
- a. **Admit in part, deny in part. Each apartment has a meter, not a submeter.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Deny. Westover owns the fuel lines located between the meter outlet and the appliance(s).**
 - e. **Admit.**

11. With regard to Paoli Place apartments (South):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Response:

11. **With regard to Paoli Place apartments (South):**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**

12. With regard to the Concord Court apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover consumes all of the gas purchased from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Response:

12. With regard to the Concord Court apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Deny.**
 - c. **Deny. Westover charges tenants for gas through an allocation based upon square footage of the unit and the number of persons residing in the unit.**
 - d. **Deny. Any fuel line past the PECO meter is part of Westover's pipeline system.**

13. With regard to the Norriton East apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Response:

13. With regard to the Norriton East apartments:
- a. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
 - b. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
 - c. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request

for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**

14. With regard to the Fox Run apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Response:

14. With regard to the Fox Run apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants**

at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.

- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover's gas facilities are located entirely within a building or buildings, and thus, the maps are insufficient to enable I&E to admit or deny.**

15. With regard to the Oak Forest apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

15. With regard to the Oak Forest apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

16. With regard to the Gladstone Towers apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

16. **With regard to the Gladstone Towers apartments:**
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

17. With regard to the Main Line Berwyn apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

17. **With regard to the Main Line Berwyn apartments:**
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E notes that the map provided by Westover shows a pool on the property, which may or may not use gas, and the map also shows a service meter in the courtyard by the pool.**
 - d. **Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 17(c).**

- e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

18. With regard to the Lansdowne Towers apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

18. **With regard to the Lansdowne Towers apartments:**
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

19. With regard to the Hillcrest apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

- 19. With regard to the Hillcrest apartments:**
- a. To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. Admit.**
 - c. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E does not possess knowledge related to the existence or non-existence of a leasing office in one of the apartment complex buildings which may or may not use gas.**
 - d. Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 19(c).**

- e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

20. With regard to the Valley Stream apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

- 20. With regard to the Valley Stream apartments:**
- a. To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. Admit.**
 - c. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E notes that the map provided by Westover includes a barn, pool, and club house which may or may not use gas.**
 - d. Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 20(c).**

- e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.**

21. With regard to the Carlisle Park apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover does not consume any of the gas purchased from the natural gas distribution company.
 - d. Westover resells all of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.

Response:

21. With regard to the Carlisle Park apartments:
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E notes that the map provided by Westover includes an office which may or may not use gas.**
 - d. **Admit in part, deny in part. Admit that Westover resells some of the gas it purchases from the natural gas distribution company. Denied that all of the gas is resold, see response to 21(c).**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor**

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to customers who are not tenants at the apartment complex, and thus, the maps are insufficient to enable I&E to admit or deny.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Responses of the Bureau of Investigation and Enforcement to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*



Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

Dated: December 27, 2022

WESTOVER EXHIBIT PQ-6

PHMSA OPINION LETTER DATED FEBRUARY 14, 2003

PI-03-0101

U.S. Department of Transportation
Research and Special Programs Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

February 14, 2003

Mr. Don A. Ledversis
Pipeline Safety Engineer
Rhode Island Division of Public Utilities & Carriers
89 Jefferson Boulevard
Warwick, RI 02888

Dear Mr. Ledversis:

This is in response to your request of January 25, 2002, for an interpretation of the jurisdictional status of the campus gas distribution system operated by Bryant College in Smithfield, Rhode Island. The question is whether the campus gas piping system is a *Master Meter System* subject to the gas pipeline safety regulations in 49 CFR Parts 191 and 192. The college claims that this system does not meet the definition of *Master Meter System* because it only uses gas to provide heat and hot water to the campus buildings and does not resell the gas.

To conclude that the Bryant College gas distribution pipeline facilities are subject to safety regulation, we need to determine that the system is a pipeline facility and that the gas is being delivered to consumers who, directly or indirectly, pay for the gas. *Master Meter System* is defined in the pipeline safety regulations at 49 CFR § 191.3:

.. a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

Pipeline facility is defined in the pipeline safety regulations at 49 CFR § 192.3:

...new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation.

Bryant College's system is clearly a pipeline facility. It distributes gas through underground pipelines to campus buildings. It does not appear to meet the definition of *Master Meter System* because it is using the gas delivered through its pipeline system to provide heat and hot water to campus buildings. In this instance the college would be the consumer of the gas.

However, if the Bryant College gas system provides gas to consumers, such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety regulations. The Bryant College pipeline system would then be a *Master Meter System*.

In conclusion, the Bryant College gas distribution system is a *Master Meter System* subject to pipeline safety regulation under 49 CFR Parts 191 and 192 if it is providing gas to customers in addition to providing heat and hot water to campus buildings.

If you have any further questions about the pipeline safety regulations, please contact me at (202) 366-4565.

Sincerely,
Richard D. Huriaux, P.E.
Manager, Regulations
Office of Pipeline Safety

WESTOVER EXHIBIT PQ-7

PHMSA OPINION LETTER DATED OCTOBER 24, 1973

October 24, 1973

Mr. James H. Collins
Electrical-Mechanical Engineer
1310 Short Street
New Orleans, LA 70118

Dear Mr. Collins:

This is in response to your letter of September 25, 1973, to our Houston Regional Field Office which was forwarded to this office for reply.

Your letter indicates that the gas system concerned is an intermediate pressure (typically 25 psi) distribution system, serving the buildings on a college campus and owned by the college. Gas is supplied through a regulator-metering station from odorized mains of a gas service utility company. The system comprises approximately 4.5 miles of welded steel mains and service lines 5 inch to 1 1/2 inch diameter, serving 45 regulators at campus buildings, installed largely prior to 1970. Cathodic protection was installed in June 1971, monitored weekly at key points by owner-personnel, and checked so far at 16-month intervals by a corrosion engineer.

The gas system as described raises the jurisdictional question of whether the pipelines on the college campus constitute a master meter system subject to the Federal gas pipeline safety regulations or whether the college is the ultimate customer and therefore the lines in the college are not subject to the regulations. In order to assist you in making this determination, if the college owned gas system consumes the gas and provides another type of service such as heat or air conditioning, to the individual buildings, then the college is not engaged in the distribution of gas. In this instance the college would be the ultimate consumer, and the Federal pipeline safety standards would only apply to mains and service lines upstream of the meter.

If the college owned gas system provides gas to consumers such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety standards.

The answers to your specific questions are predicated on the assumption that this system is a distribution system subject to the jurisdiction of the Federal pipeline safety standards.

Question 1. Is an annual report on the monitoring and engineering check of the cathodic protection required to be made by the owner (the college) and if so on what Form?

Answer. Section 192.453 of the Code of Federal Regulations requires that all phases of work performed during design, installation, operation and maintenance including recordkeeping in connection with corrosion control be carried out by, or under the direction of a person qualified by experience and training in pipeline corrosion control methods.

An annual report to the Office of Pipeline Safety (OPS) on the monitoring and engineering check of the cathodic protection of a gas pipeline is not currently required and there are no Federal forms for this purpose. However §192.491 does require each operator to keep records in sufficient detail to demonstrate the adequacy of his corrosion control measures or that a corrosive condition does not exist.

Question 2. Is an annual report on leaks from any cause required to be made by the owner, and if so on what Form?

Answer. Section 191.11, 49 CFR requires that each operator of a distribution system submit an annual report on Department of Transportation Form DOT-F-7100.1-1 (copy enclosed) not later than February 15 for the preceding calendar year.

Your attention is also directed to Section 191.5, 49 CFR which sets out the requirements for telephonic notice of certain leaks by all gas operators.

Question 3. Is a gas detector leakage survey required by OPS regulations, per No. 192.723, and if so, per (b)(1) as in a business district at 1-year intervals, or per (b)(2) as a system outside of principal business areas, at intervals not exceeding 5-years. What Form is available for the report to OPS?

Answer. Your attention is directed to the language of paragraph (b) of Section 192.723, stating that the type and scope of the leakage control program must be determined by the nature of the operations and local conditions, but it must meet the minimum requirements of a gas detector survey (1) at least once a year in business districts, and (2) as frequently as necessary, but at least every 5 years, outside the principal business areas. In the interest of continuing safe pipeline operation it is contemplated by this section that whenever local conditions warrant it surveys will be conducted more frequently than once a year in business districts, and more frequently than every 5 years outside the municipal business areas. It follows that there may very well be instances in which conducting a survey only once a year in a particular business district, or only once in 5 years in a particular area outside of the principal business district would be considered inadequate. An evaluation of the potential hazard due to the nature of buildings such as those on campus and the specific condition and environment of the pipeline system could indicate that consideration to conducting leakage surveys "as frequently as necessary" would mean more frequently than the minimum interval of 5 years.

The answer to the recordkeeping and report filing requirement in question one also applies here.

Question 4. Are periodic tests of odorization per No. 192.625 required of the owner or is he covered by tests made by the supply utility company?

Answer. Section 192.625(f), 49 CFR, requires that each operator shall conduct periodic sampling of combustible gases to assure the proper concentration of odorant in accordance with this section. Based on the assumption that the college is operating a gas distribution system, periodic tests of odorization by the owner are required.

The enclosed literature includes Parts 190 and 192 which you requested.

We trust that this will clarify the matter for you. If we can be of further assistance to you, please let us know.

Sincerely,

\signed\

Joseph C. Caldwell
Director
Office of Pipeline Safety

Enclosures

WESTOVER EXHIBIT PQ-11

PHMSA OPINION LETTER DATED SEPTEMBER 16, 1976

PI-76-0114

Sep 16 1976

Ms. Joyce Ann Journey
Property Manager
Housing Services, Inc.
Landover Mall West, Suite 202
Landover, Maryland 20785

Dear Ms. Journey:

This responds to your letter of August 2, 1976, asking whether the piping downstream from a master meter constitutes a gas distribution system subject to 49 CFR Part 192 if none of the piping is exposed or underground.

A system which involves interior piping only (i.e., underground or exterior pipelines are not used to distribute gas) is not a master meter system subject to 49 CFR Part 192. The legislative history of the Natural Gas Pipeline Safety Act of 1968, under which 49 CFR Part 192 is issued, indicates that in authorizing the safety regulation of the distribution of gas by pipelines, Congress had in mind those distribution systems which are primarily located outside. Thus, interior piping is only subject to regulation when it is included in an operator's system which is otherwise located outside.

We trust this response is helpful to you.

Sincerely,

Cesar DeLeon
Acting Director
Office of Pipeline
Safety Operations

HOUSING SERVICES, INC.

August 02, 1976

Office of Pipeline Safety Operations
U.S. Department of Transportation
Washington, D.C. 20590

Gentlemen:

Pursuant to correspondence received regarding the "Natural Gas Pipeline Safety Act of 1968", there are many regulations governing operators and/or distributors of gas pipeline systems.

This office received a bulletin from the Department of Housing and Urban Development in July of 1976 requesting that all owners and management agents of HUD insured housing projects are not in violation of the Act.

Based on this HUD Information Bulletin (page No.1, Item No. 2), I do not consider us as an operator as none of our pipes are exposed or go under ground again after reaching the master meter.

After numerous telephone calls I was advised by the Federal Housing Administration to contact your office for the forms for certification for each of our properties, which are all apartment complexes.

Please advise if my conclusion is in any way incorrect. Your response will be appreciated.

Respectfully,

Joyce Ann Jurney
Property Manager

WESTOVER EXHIBIT PQ-14
I&E'S AMENDED RESPONSE TO WESTOVER'S
REQUESTS FOR ADMISSION – SET I



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 8, 2023

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Amended Response to Westover Requests for Admission - Set I

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Amended Responses to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

KLR/jfm
Enclosures

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**AMENDED RESPONSES OF THE BUREAU OF
INVESTIGATION AND ENFORCEMENT
TO THE REQUESTS FOR ADMISSION - SET I OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to 52 Pa. Code § 5.332, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Amended Responses to the Requests for Admission- Set I of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

1. With regard to the Willow Run apartments:
 - a. The natural gas distribution company delivers gas directly to a meter for each apartment.
 - b. Westover does not purchase any gas from the natural gas distribution company.
 - c. Westover does not resell any gas.
 - d. Westover does not own a pipeline system for distributing gas.

Original Response:

1. **With regard to the Willow Run apartments:**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - d. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Willow Run Apartment on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

Amended Response:

- 1. With regard to the Willow Run apartments:**
 - a. Admit.**
 - b. Denied. By way of further response, an office is located at Willow Run Apartments which may or may not use gas.**
 - c. Admit.**
 - d. Admit.**

2. With regard to the Woodland Plaza apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. None of Westover's gas facilities are located underground.
 - c. Westover purchases gas from the natural gas distribution company.
 - d. Westover consumes some of the gas purchased from the natural gas distribution company.
 - e. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - f. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - g. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.
 - h. All of the leaks found during I&E's inspection of Woodland Plaza on November 15, 2022 were on the natural gas distribution company's side of the gas meter.

Original Response:

2. **With regard to the Woodland Plaza apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **Admit.**
 - f. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor**

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus the maps are not sufficient to enable I&E to admit or deny.

- g. Admit.**
- h. I&E objects to this request because the statement is not relevant. Pursuant to Section 5.350, “A party may serve upon another party a written request for the admission of the truth of any matters, *within the scope of §§ 5.321—5.324 (relating to general discovery).*” 52 Pa. Code § 5.350 (emphasis added). Under Section 5.321, a party cannot obtain discovery unless it is relevant to the subject matter involved in the pending action. 52 Pa. Code § 5.321(c). The location of the leaks is not relevant to the subject matter of this pending action, i.e., (1) whether the Commission has jurisdiction over master meter systems pursuant the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 et seq. (“Act 127”) and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015, and (2) whether Westover is a pipeline operator, as defined in 58 P.S. § 801.102, in that it operates master meter systems, as defined in 49 CFR § 191.3, at its apartment complexes and whether Westover is compliant with Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015.**

Amended Response:

- 2. With regard to the Woodland Plaza apartments:**

 - a. Admit.**

- b. **Admit.**
- c. **Admit.**
- d. **Admit.**
- e. **Admit.**
- f. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus the maps are not sufficient to enable I&E to admit or deny.**
- g. **Denied. The gas piping past the first flange after the outlet side of the meter, which is outside of the building, is part of Westover's gas facilities.**
- h. **I&E objects to this request because the statement is not relevant. Pursuant to Section 5.350, "A party may serve upon another party a written request for the admission of the truth of any matters, *within the scope of §§ 5.321—5.324 (relating to general discovery).*" 52 Pa. Code § 5.350 (emphasis added). Under Section 5.321, a party cannot obtain discovery unless it is relevant to the subject matter involved in the pending action. 52 Pa. Code § 5.321(c). The location of the leaks is not relevant to the subject matter of this pending action, i.e., (1) whether the Commission has jurisdiction over master meter systems pursuant the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101 et seq. ("Act 127") and Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015, and (2) whether Westover is a pipeline operator, as defined in 58 P.S. § 801.102, in that it operates master**

meter systems, as defined in 49 CFR § 191.3, at its apartment complexes and whether Westover is compliant with Part 192 of the Federal pipeline safety regulations, 49 CFR §§ 192.1-192.1015.

4. With regard to the Country Manor apartments:
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Original Response:

4. **With regard to the Country Manor apartments:**
 - a. **Admit.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.**
 - f. **Admit.**

Amended Response:

- 4. With regard to the Country Manor apartments:**
 - a. Admit.**
 - b. Admit.**
 - c. Admit.**
 - d. Admit.**
 - e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.**
 - f. Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.**

9. With regard to the Paoli Place apartments (North Buildings A-K):
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system that Westover uses to transport gas to its tenants is located entirely within a building or buildings.

Original Response:

9. With regard to the Paoli Place apartments (North Buildings A-K):
- a. **To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.**
 - b. **Admit.**
 - c. **Admit.**
 - d. **Admit.**
 - e. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E**

to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

f. Admit.

Amended Response:

9. With regard to the Paoli Place apartments (North Buildings A-K):

a. To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.

b. Admit.

c. Admit.

d. Admit.

e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

f. Admit in part, Denied in part. The sub-meters are located outside the main building but inside a mechanical area accessible from the back patio/porch area.

11. With regard to Paoli Place apartments (South):
 - a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Original Response:

11. **With regard to Paoli Place apartments (South):**
 - a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Paoli Place Apartments (South) on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

Amended Response:

11. With regard to Paoli Place apartments (South), which I&E believes is located at 55 and 77 South Valley Street:

- a. To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.
- b. Admit.
- c. Admit.
- d. Admit.

- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.
- f. Denied. The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.

13. With regard to the Norriton East apartments:
- a. All of Westover's gas facilities are located within the apartment complex.
 - b. Westover purchases gas from the natural gas distribution company.
 - c. Westover consumes some of the gas purchased from the natural gas distribution company.
 - d. Westover resells the remainder of the gas that it purchases from the natural gas distribution company.
 - e. Westover does not resell gas to any customers who are not tenants in Westover's apartment complex.
 - f. The gas distribution system used to serve Westover tenants is located entirely within a building or buildings.

Original Response:

13. **With regard to the Norriton East apartments:**
- a. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - b. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.**
 - c. **After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request**

for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

- d. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.
- f. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. I&E filed and served a Request for Entry to Norriton East Apartments on December 21, 2022 so it can obtain the information and facts necessary to either admit or deny.

Amended Response:

13. With regard to the Norriton East apartments:

- a. To the extent that I&E has no information to the contrary, I&E admits that all of Westover's gas facilities are located within the apartment complex.
- b. Admit.
- c. Admit.
- d. Admit.
- e. After reasonable inquiry with information known, I&E cannot admit or deny for lack of information or knowledge. Westover does not possess nor

could it provide maps detailing the location of the pipeline facilities for I&E to determine whether Westover resells gas to individuals who are not tenants, and thus, the maps are insufficient to enable I&E to admit or deny.

- f. **Denied.** The gas piping past the first fitting after the outlet side of the meter location, which is outside of the building, is part of Westover's gas facilities.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Amended Responses of the Bureau of Investigation and Enforcement to the Requests for Admission - Set I of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*



Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

Dated: February 8, 2023



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
2/8/2023	2456285

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251

Case Description:

Transmission Date: 2/8/2023 3:05 PM

Filed On: 2/8/2023 3:05 PM

eFiling Confirmation Number: 2456285

File Name	Document Type	Upload Date
C-2022-3030251 (Westover) I&E Amnd Resp to Westover Req for Admission - Set I CL&COS.pdf	Certificate of Service	2/8/2023 3:04:53 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

WESTOVER EXHIBIT PQ-30

I&E'S SUPPLEMENTAL ANSWERS TO INTERROGATORIES SET III

NOS. 2 AND 3



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 7, 2023

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Supplemental Answers to Westover Interrogatories - Set III (Nos. 2, 3, & 5)

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Supplemental Answers to the Interrogatories - Set III (Nos. 2, 3, & 5) of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**SUPPLEMENTAL ANSWERS OF THE BUREAU OF
INVESTIGATION AND ENFORCEMENT
TO THE INTERROGATORIES - SET III (NOS. 2, 3, & 5) OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to Deputy Chief Administrative Law Judge Christopher Pell’s January 18, 2023 Interim Order, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Supplemental Answers to the Interrogatories - Set III (Nos. 2, 3, & 5) of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

2. Please Identify and describe all Communications between Scott Orr and UGI personnel at or regarding Woodland Plaza Apartments on November 15, 2022.

SUPPLEMENTAL ANSWER: Mr. Orr called UGI personnel twice to report a natural gas leak after smelling gas at Woodland Plaza Apartments on November 15, 2022. During the phone calls, Mr. Orr identified himself, identified the reasoning for the call, provided the address for Woodland Plaza, and inquired on who would be responding. After UGI personnel arrived at Woodland Plaza and tested the pipeline facilities, Mr. Orr confirmed with UGI personnel that the pipeline facilities were leaking and that more UGI personnel were enroute. UGI personnel advised Mr. Orr that UGI was going to test all pipeline facilities at Woodland Plaza Apartments and then would remediate the cause of the leak(s). UGI personnel advised Mr. Orr that multiple leaks were found at multiple apartment buildings at Woodland Plaza and later confirmed with Mr. Orr that the leaks were fixed. Westover's compliance with Act 127 and Part 192 of the applicable federal regulations was not discussed between Mr. Orr and UGI personnel.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 3

Set III Supplemental

3. a. What is a “Grade 3 Emergency?” Please provide a citation for this definition.
- b. What occurred at Woodland Plaza on November 15, 2022 that was a “Grade C Emergency”?

SUPPLEMENTAL ANSWER:

- a. Mr. Orr is unable to provide a definition for a “Grade 3 Emergency.” The terminology is based upon UGI’s internal procedure on the classification of leaks as required by 49 CFR § 192.605, which requires operators to create a manual of written procedures for maintenance activities and emergency response.
- b. Mr. Orr cannot answer the question as the classification and terminology of natural gas leaks is determined by UGI’s internal procedures.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 3

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

VERIFICATION

I, Scott Orr, Fixed Utility Valuation Engineer – 3, in the Bureau of Investigation and Enforcement’s Safety Division, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: February 7, 2023



Scott Orr
Fixed Utility Valuation Engineer – 3
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Supplemental Answers of the Bureau of Investigation and Enforcement to the Interrogatories - Set III (Nos. 2, 3, & 5) of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
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*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*



Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

Dated: February 7, 2023



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
2/7/2023	2456042

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251
Case Description: P-2021-3030002
Transmission Date: 2/7/2023 3:00 PM
Filed On: 2/7/2023 3:00 PM
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VERIFICATION

I, Peter D. Quercetti, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: February 22, 2023

Peter D. Quercetti



February 22, 2023

VIA E-MAIL AND FIRST CLASS MAIL

David P. Zambito

Direct Phone 717-703-5892
Direct Fax 215-989-4216
dzambito@cozen.com

Honorable Christopher P. Pell
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
801 Market Street
Philadelphia, PA 19107

Re: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P.; Docket Nos. C-2022-3030251 and P-2021-3030002

Direct Testimony of Westover Property Management Company, L.P. d/b/a Westover Companies

Dear Deputy Chief Administrative Law Judge Pell:

Enclosed please find copies of the following direct testimony and accompanying exhibits submitted on behalf of Westover Property Management Company, L.P. d/b/a Westover Companies in the above-referenced matter:

1. Direct Testimony of Peter Quercetti, Westover Statement No. 1, with Westover Exhibits PQ-1 through PQ-30. **Please note that Westover Exhibits PQ-2, 4, 8-10, 12-13, and 15-29 have been marked as Confidential. They will be mailed in separate sealed envelopes and will be provided to all parties.**
2. Direct Testimony of Alexander Stefanelli, Westover Statement No. 2, with Westover Exhibits AS-1 through AS-18.

Copies have been served as shown on the enclosed certificate of service.

Please contact me if you have any question or concern. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR



By: David P. Zambito
Counsel for *Westover Property Management
Company d/b/a Westover Companies*

DPZ/kmg
Enclosures

cc: Rosemary Chiavetta, Secretary (Cover letter and Certificate of Service only)
Athena Delvillar
Per Certificate of Service
Peter Quercetti
Alexander Stefanelli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket Nos. C-2022-3030251 P-2021-3030002
	:	
Westover Property Management Company, L.P. d/b/a Westover Companies	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this 22nd day of February, 2023 served the foregoing **Direct Testimony of Westover Property Management Company, L.P. d/b/a Westover Companies** upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

Kayla L. Rost, Esq.
Scott Granger, Esq.
Gina L. Miller, Esq.
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David P. Zambito, Esq.
Counsel for *Westover Property Management
Company, L.P. d/b/a Westover Companies*

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Christopher P. Pell**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	

**DIRECT TESTIMONY OF ALEXANDER
STEFANELLI ON BEHALF OF WESTOVER
PROPERTY MANAGEMENT COMPANY, L.P.
D/B/A WESTOVER COMPANIES**

Dated: February 22, 2023

Westover St. No. 2

**DIRECT TESTIMONY OF
ALEXANDER STEFANELLI**

INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Alexander Stefanelli and my business address is 550 American Avenue, Suite 1, King of Prussia, PA 19406.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover” or the “Company”) as the Chief Financial Officer (“CFO”).

Q. WHAT ARE YOUR RESPONSIBILITIES IN THAT CAPACITY?

A. As CFO, I am responsible for overseeing the financial operations of the Company and making decisions based on the company’s financial stability. This includes monitoring cash flow, meeting with the Chief Executive Officer to discuss the best practices for company finances, and developing strategic plans to improve the Company’s overall financial health.

Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL EXPERIENCE.

A. I received a Bachelor of Science degree in Mathematics from Millersville University in 1993. I received a Master of Business Administration in Accounting from Saint Joseph’s University in 1998. I have over 30 years of financial experience in industries that include manufacturing, financial services and real estate. I have been the Chief Financial Officer of Westover since I joined the Company in 2013.

1 In addition, I currently serve as the Treasurer of the Board of Directors of the
2 Pennsylvania Apartment Association (“PAA”).
3

4 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PENNSYLVANIA
5 PUBLIC UTILITY COMMISSION (“COMMISSION”)?**

6 **A.** No.
7

8 **THE GAS AND HAZARDOUS LIQUIDS PIPELINE ACT**

9 **Q. ARE YOU FAMILIAR WITH THE GAS AND HAZARDOUS LIQUIDS PIPELINE
10 ACT, ACT 127 OF 2011 (“ACT 127”)?**

11 **A.** I am not a lawyer, but in the past several years, because of the investigation of Westover
12 by the Commission’s Bureau of Investigation and Enforcement (“I&E”), I have become
13 familiar with Act 127. Act 127 gives the Commission general administrative authority to
14 supervise and regulate “pipeline operators” within the Commonwealth. A “pipeline
15 operator” is defined as:

16 A person that owns or operates equipment or facilities in this
17 Commonwealth for the transportation of gas or hazardous liquids by
18 pipeline or pipeline facility regulated under Federal pipeline safety laws.
19 The term does not include a public utility or an ultimate consumer who owns
20 a service line on his real property.
21

22 **Q. DOES WESTOVER OWN OR OPERATE NATURAL GAS EQUIPMENT OR
23 FACILITIES IN PENNSYLVANIA?**

24 **A.** Westover does not own any natural gas equipment or facilities. Westover is a property
25 management company that manages apartment complexes and commercial properties in

1 Pennsylvania on behalf of the property owner. In that capacity, Westover operates the
2 natural gas equipment and facilities at the properties that it manages.

3 I should add that Westover operates natural gas equipment and facilities in other
4 states as well. In no state are we currently regulated as a “master meter system.”
5

6 **SCOPE OF THIS PROCEEDING**

7 **Q. DOES THIS PROCEEDING INVOLVE THE NATURAL GAS EQUIPMENT AND**
8 **FACILITIES AT EVERY PROPERTY THAT WESTOVER OPERATES IN**
9 **PENNSYLVANIA?**

10 **A.** No. Some properties operated by Westover do not have natural gas facilities or equipment.
11 Moreover, the Administrative Law Judge has held that the only properties involved in this
12 proceeding are the ones identified in I&E’s Complaint at Docket No. C-2022-3030251, in
13 Westover’s Answer and New Matter in that proceeding, or in Westover’s Petition at Docket
14 No. P-3030002.

15 The properties identified in those documents are:

- 16 a. Park Court
17 28 South Water Street
18 Womelsdorf, PA 19567
- 19 b. Oak Forest
20 2220 Alsace Road
21 Reading, PA 19604
- 22 c. Woodland Plaza
23 1701 State Hill Road
24 Wyomissing, PA 19610
- 25 d. Mill Creek
26 255 East Lincoln Highway
27 Penndel, PA 19407

- 1 e. Country Manor
2 2151 E. Lincoln Highway
3 Levittown, PA 19056
4
- 5 f. Fox Run
6 365 Newtown Road
7 Warminster, PA 18974
8
- 9 g. Main Line Berwyn
10 750 Old Lancaster Road
11 Berwyn, PA 19312
12
- 13 h. Black Hawk
14 1 Black Hawk Circle
15 Downingtown, PA 19335
- 16 i. Paoli Place¹
17 27 E. Central Avenue
18 Paoli, PA 19301
19
- 20 j. Concord Court
21 3701 Concord Road
22 Aston, PA 19014
23
- 24 k. Gladstone Towers
25 223 Scottdale Road
26 Lansdowne, PA 19050
- 27 l. Hillcrest
28 785 West Providence Road
29 Lansdowne, PA 19050
30
- 31 m. Lansdowne Towers
32 772 East Providence Road
33 Aldan, PA 19018
34
- 35 n. Lansdale Village
36 219 York Avenue
37 Lansdale, PA 19446
- 38 o. Norriton East
39 2620 Dekalb Pike
40 East Norriton, PA 19401
41

¹ Referred to herein as “Paoli North.”

- 1 p. Valley Stream
2 2100 North Line Street
3 Lansdale, PA 19446
4
5 q. Willow Run
6 3505 Moreland Road
7 Willow Grove, PA 19090
8
9 r. Paoli South
10 55 South Valley Road
11 Paoli, PA 19301
12
13 s. Paoli South Valley Townhomes
14 50 South Valley Road
15 Paoli, PA 19301
16
17 t. Carlisle Park
18 525 Third Street
19 Carlisle, PA 17013
20
21 u. Bryn Mawr Medical Building
22 600 Haverford Avenue
23 Haverford Pennsylvania
24 and
25
26 v. Bryn Mawr Medical Building
27 931 Haverford Avenue
28 Haverford, PA 19041
29

30 For ease of reference, in my testimony, I will refer to the natural gas equipment and
31 facilities at these properties as the “Systems.”
32

33 **THRESHOLD ISSUE**

34 **Q. WHAT IS THE THRESHOLD ISSUE PRESENTED IN THIS CASE?**

35 **Q.** The threshold issue presented in this case is whether the Systems are subject to
36 Commission regulation pursuant to Act 127. I&E claims that they are, because Act 127
37 defines a pipeline operator as someone who owns or operates equipment for the

1 transportation of gas by pipeline or pipeline facility regulated under Federal pipeline safety
2 laws. I&E contends that Westover’s Systems are regulated under Federal pipeline safety
3 laws because they are “master meter systems” as defined by the regulations of the U.S.
4 Department of Transportation at 49 CFR § 191.3. I&E therefore contends that Westover
5 must register as a pipeline operator pursuant to Act 127, and must comply with the
6 regulations that apply to “master meter systems.” Finally, I&E alleges that Westover failed
7 to comply with some of these regulations (*e.g.*, 49 CFR §§ 192.603, 192.605, 192.615,
8 192.625, 192.805 and 192.807).

9
10 **Q. PLEASE EXPLAIN WHY WESTOVER DISAGREES.**

11 **A.** I am advised by counsel that the Federal pipeline safety laws define a “master meter
12 system” as:

13 ... a pipeline system for distributing gas within, but not limited to, a
14 definable area, such as a mobile home park, housing project, or apartment
15 complex, where the operator purchases metered gas from an outside source
16 for resale through a gas distribution pipeline system. The gas distribution
17 pipeline system supplies the ultimate consumer who either purchases the
18 gas directly through a meter or by other means, such as by rents[.]

19 49 CFR § 191.3. I am further advised by counsel that none of the Systems involved in this
20 case satisfy all the different requirements of this definition. My colleague, Peter Quercetti,
21 addresses this issue in detail in his testimony. Westover Statement No. 1.

22 In addition, I am advised by counsel that Pennsylvania’s Act 127 was not intended
23 to apply the Federal pipeline safety laws to landlords that purchase gas from a Commission-
24 regulated natural gas distribution company (“NGDC”) and resell it to occupants of rental
25 units on their property. Attached as **Westover Exhibit AS-1** is the Pennsylvania Senate
26 Journal from December 13, 2011. On pages 1340-1341, Senators Baker and Dinniman

1 discuss the purpose of H.B. 344, which became Act 127. They explain that the bill was a
2 reaction to the construction of numerous pipelines in Pennsylvania due to the Marcellus
3 Shale boom. The bill was intended to address gaps in the regulation of gas lines carrying
4 Marcellus Shale gas from the well to markets all over the Commonwealth.

5 Senator Baker refers to a series of articles in the *Philadelphia Inquirer* that discuss
6 the problems that would be addressed by H.B. 344. That series of articles is attached as
7 **Westover Exhibit AS-2**. Again, these articles demonstrate that Act 127 was intended to
8 address issues resulting from the construction of pipelines carrying Marcellus Shale gas
9 from wells to market. The bill was not intended to apply to a landlord downstream of a
10 regulated public utility, who purchases gas from an NGDC and resells it to occupants of
11 the rental units on its property.

12 It would be absurd and unreasonable to read Act 127 as making a landlord who
13 buys gas from an NGDC, and supplies it to his own property, as a “pipeline operator” that
14 needs to comply with the full panoply of requirements included in the Federal pipeline
15 safety laws. Such a landlord is in the business of renting real estate, not operating a
16 pipeline. Such a landlord was not subject to the Federal pipeline safety laws before Act
17 127 was enacted. Reading Act 127 as applying to such a landlord would effect a dramatic
18 change in Pennsylvania law. Act 127 should not be construed as making such a dramatic
19 change in law without some clear indication that the Legislature intended such a result.
20 Nothing in either the language or the legislative history of Act 127 indicates that the
21 General Assembly intended to make such a dramatic change in the law applicable to
22 apartment complexes.

COMMISSION IMPLEMENTATION OF ACT 127

1
2 **Q. DID ACT 127 AUTHORIZE THE COMMISSION TO ADOPT REGULATIONS**
3 **IMPLEMENTING THE ACT?**

4 **A.** Yes. Act 127 gave the Commission authority to adopt regulations consistent with the
5 Federal pipeline safety laws, but the Commission -- after more than a decade -- has not
6 promulgated regulations implementing Act 127 or specifically defining its interpretation
7 of the limits of its powers under Act 127.²

8
9 **Q. DID THE COMMISSION ADOPT IMPLEMENTATION ORDERS**
10 **IMPLEMENTING ACT 127?**

11 **A.** I am advised by counsel that the Commission adopted a Tentative Implementation Order
12 on January 12, 2012 and a Final Implementation Order on February 16, 2012, both at
13 Docket No. M-2012-2282031. In addition, the Commission adopted a Tentative Order on
14 May 24, 2012 and a Final Order on June 7, 2012, also at Docket No. M-2012-2232031,
15 regarding the Commission's jurisdiction over transmission pipelines and pipeline facilities
16 in Class 1 locations. Finally, the Commission adopted an Implementation Order at Docket
17 No. M-2012-2282031 on December 8, 2022, which addressed the impact of recent changes
18 in federal regulations on the Commission's jurisdiction. I am advised by counsel that none
19 of these orders specifically addresses the Commission's jurisdiction over gas facilities and
20 equipment at apartment complexes.

² I am advised by counsel that, under the Pennsylvania regulatory review process, interested parties would have had an opportunity to provide comments on the appropriate implementation of Act 127 and binding norms on all similarly-situated entities could have been developed. Moreover, the Pennsylvania General Assembly would have had an opportunity to review the Commission regulations and assess consistency with the legislative intent of Act 127. *See* Pennsylvania Regulatory Review Act, 71 P.S. §§ 745.1 - 745.15; *see also* Pennsylvania Commonwealth Documents Law, 45 P.S. §§ 1102 - 1208. Without clear binding norms, the risk of selective and discriminatory prosecution is greatly increased.

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Q. ARE YOU AWARE OF ANY COMMISSION DECISIONS THAT HAVE ADDRESSED WHETHER ACT 127 APPLIES TO OWNER/OPERATORS OF APARTMENT COMPLEXES OR SIMILAR ENTITIES?

A. No. I&E’s Reply to New Matter, ¶ 53, admitted that “the Commission has not yet had the opportunity to rule on a case involving a master meter system operated in an apartment complex.” I&E claims, however that the Commission has determined that “master meter systems” operated in mobile home parks are jurisdictional. As authority for this statement, I&E cited *Pa. Pub. Util. Comm’n, Bureau of Investigation and Enforcement v. Brookhaven MHP Management LLC*, Docket No. C-2017-2613983 (Order entered August 23, 2018). I am advised by counsel that the referenced case involved a settlement between I&E and several owners of mobile home parks. I am further advised by counsel that settlements do not establish precedent at the Commission. Consequently, Westover believes that the threshold issue presented in this case is an issue of first impression for the Commission.

Q. WHAT WOULD HAPPEN IF THE COMMISSION WOULD ADOPT I&E’S POSITION ON THE THRESHOLD ISSUE IN THIS CASE?

A. There would be at least three significant impacts. First, based on my experience with the PAA, where I have been a member for many years and a member of the Board of Directors, my view is that a Commission decision construing Act 127 as applying to owner/operators of apartment complexes would impact hundreds, perhaps thousands, of apartment complexes. Many of these complexes would need to significantly change their operations in order to comply with Federal pipeline safety laws. The result would be a substantial

1 impact on the housing market and the cost of living throughout Pennsylvania. The
2 Commission’s decision in this case will have significant implications for many people and
3 businesses that are not parties to this litigation.

4 Second, based on my experience in this case, it is my opinion that many
5 owner/operators of apartment complexes would need to spend a great deal of money to
6 come into compliance with Act 127 and the Federal pipeline safety laws. For example,
7 Westover is being prosecuted for not developing a comprehensive procedures manual for
8 operations, maintenance and emergencies and for not maintaining records showing the
9 implementation of these policies. Complaint ¶¶ 45c-d. If the gas systems in apartment
10 complexes are subject to the same requirements as interstate transmission pipelines,
11 landlords would have to spend a lot of money to comply with those requirements – and
12 those costs would be passed on to building occupants. At a time when building occupants
13 (both residential and commercial tenants) are already experiencing considerable inflation,
14 they should not be forced to pay higher rents because the pipes inside an apartment building
15 are suddenly treated as a “pipeline.”

16 Finally, Westover is being prosecuted for not having a qualification program that
17 identifies qualified tasks and ensures that the individuals performing the covered tasks are
18 qualified. I seriously doubt that many apartment owner/operators have OQ-certified
19 personnel on staff, or have OQ-certified contractors on call, to complete routine repairs.
20 This is especially true for smaller owner/operators, and owner/operators located in smaller,
21 more rural counties. The Commission should not adopt a regulatory scheme that is doomed
22 to fail.

1 **COMMISSION EFFORTS TO EDUCATE OWNERS/OPERATORS OF APARTMENT**
2 **COMPLEXES REGARDING ACT 127**

3 **Q. ARE YOU AWARE OF ANY EDUCATIONAL MATERIALS DISTRIBUTED BY**
4 **THE COMMISSION REGARDING THE COMMISSION’S JURISDICTION**
5 **OVER “MASTER METER SYSTEMS”?**

6 **A.** Yes. Attached as **Westover Exhibit AS-3** is a document entitled “Act 127 of 2011 – The
7 Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions” (“Frequently Asked
8 Questions”), which is dated February 2014. I found this document on the Commission’s
9 website in January 2022. It was still on the Commission’s website as of February 14,
10 2023.³ Question 6 asks: “What is considered a Pipeline Operator under Act 127?” In
11 pertinent part, the answer is:

12 Pipeline operators include: Companies engaged in the gathering,
13 transportation or distribution of natural gas or hazardous liquids.

14
15 These include ... *master meter systems that provide service to property*
16 *owned by third parties*

17 Similarly, Question 7 asks: “What is not considered a Pipeline Operator under Act
18 127?” In pertinent part, the answer is:

19 Those who are not pipeline operators include: . . . ultimate consumers who own
20 service lines on their real property (*including master meter systems serving their own*
21 *property*)

22 The answers to Frequently Asked Questions 6 and 7 are consistent with the
23 definition of a “master meter system” in 49 CFR § 191.3 (which defines a “master meter
24 system,” in pertinent part, as a distribution system providing service *within, but not limited*
25 *to, an apartment complex*)(emphasis added). As my colleague, Peter Quercetti, discusses
26 in his testimony, Westover Statement No. 1, the Systems operated by Westover are located

³ This document can be found at: https://www.puc.pa.gov/NaturalGas/pdf/Act127/12_Act127_FAQs.pdf

1 entirely within the complexes operated by Westover and only serve that property. Based
2 on the “Frequently Asked Questions,” Westover’s Systems should not be considered
3 “pipeline operators.” I do not understand why I&E is asking the Commission to change its
4 position at this time.

5
6 **Q. ARE YOU AWARE OF ANY EFFORTS BY THE COMMISSION TO EDUCATE**
7 **OWNERS OF APARTMENT COMPLEXES THAT ACT 127 MIGHT APPLY TO**
8 **THEIR GAS SYSTEMS?**

9 **A.** To the best of my knowledge, no one at Westover was ever contacted by the Commission
10 regarding Act 127 until we had a gas leak at Jamestown Village in 2018 (which I will
11 discuss below).

12 To my knowledge, the Commission has never contacted the PAA to discuss the
13 potential application of Act 127 to apartment complexes. After this proceeding began, I
14 told the Board of Directors and many members of PAA that they might be considered
15 owner/operators of pipelines who must comply with Act 127. They were unaware that
16 owner/operators of apartment complexes could be prosecuted for violating Act 127.

17 In discovery, Westover asked I&E to “[d]escribe all educational activities I&E has
18 undertaken to advise master meter operators of the jurisdictional status since the enactment
19 of Act 127.” I&E’s response was:

20 PECO, in partnership with I&E, conducted natural gas master meter
21 operator training sessions on June 5, 2019 and September 18, 2019 to master
22 meter operators within PECO’s service territory who responded to PECO’s
23 invitation.

1 **Westover Exhibit AS-4.** I&E’s answer provided no information about the substance of
2 the training, so I cannot say whether I&E discussed what “master meter systems” are and
3 are not subject to Commission jurisdiction.

4 I can say, however, that two training sessions in one NGDC’s service territory
5 during a ten-year period is woefully inadequate to notify landlords across the
6 Commonwealth that the Commission’s prosecutor believes that Act 127 effected a
7 dramatic change in Pennsylvania law. The Commission should do more to encourage
8 compliance with Act 127, rather than selectively prosecuting some owner/operators of
9 apartment complexes while turning a blind eye to similar systems at other apartment
10 complexes.⁴

11
12 **INVESTIGATION OF WESTOVER BY I&E**

13 **Q. PLEASE DISCUSS I&E’S INVESTIGATION OF WESTOVER’S SYSTEMS.**

14 **A.** I&E’s Complaint alleges that Westover did not cooperate with I&E’s investigation.
15 Complaint ¶ 45i. This is very misleading. First, Westover respectfully submits that it has
16 no obligation to submit to I&E’s interpretation of the law. Westover has cooperated with
17 I&E’s investigation while exercising its constitutional right to contest I&E’s claims and
18 pursue its constitutional right to submit the parties’ dispute to an impartial adjudicator.
19 Westover has no obligation to acquiesce to I&E’s demands and voluntarily subject itself to
20 Commission jurisdiction.

⁴ As I discuss later in my testimony, based on my review of the list of Act 127 pipeline operators who have registered with the Commission, it appears that very few apartment owner/operators have registered to date. I am sure that, since Act 127 took effect, other apartment complexes have experienced a gas leak like Westover experienced at Jamestown Village. For reasons that are unclear, I&E is prosecuting Westover but is not pursuing other apartment owner/operators.

1 Second, as discussed in I&E’s Complaint, and as I will discuss below, I&E’s
2 investigation began in 2018 as an investigation of the gas system at Jamestown Village.
3 Westover spent a lot of money to prepare documents requested by I&E. We spent more
4 than \$41,000 just developing maps and preparing an Operations and Maintenance Manual
5 (“O&M Manual”).

6 Third, as I will discuss, until July 2021, I&E’s investigation was focused
7 exclusively on Jamestown Village. At a meeting on July 15, 2021, I&E and Westover
8 agreed that Jamestown Village is not a “master meter system.” After that date, I&E’s
9 investigation evolved into a broader investigation that involved gas systems at other
10 properties operated by Westover. I&E ultimately decided not to include Jamestown
11 Village in the Complaint, and Jamestown Village is not one of the Systems involved in this
12 proceeding. Consequently, the Commission should only consider whether Westover
13 cooperated in I&E’s investigation since July, 2021 relating to the Systems involved in this
14 case; whether Westover cooperated in I&E’s investigation of Jamestown Village is
15 irrelevant for this litigation.

16
17 **Q. WHEN DID I&E BEGIN INVESTIGATING WESTOVER’S SYSTEMS?**

18 **A.** According to I&E’s Complaint, the I&E Gas Safety Division became aware of Westover’s
19 Systems when I&E Staff visited Jamestown Village on May 22 and 23, 2018, in response
20 to a natural gas leak and service outage reported by PECO Energy Company (Gas Division)
21 (“PECO”). I&E alleges that it first ensured that the leak was properly repaired and service
22 restored. Complaint ¶ 28. Subsequently, I&E shifted its focus to determining whether

1 Westover's Systems constitute "master meter systems" as defined in 49 CFR § 191.3.
2 Complaint ¶ 28.

3 On December 2, 2020, I&E personnel performed a virtual inspection of Westover's
4 facilities and records in Willow Grove (the location of Jamestown Village). By letter dated
5 February 3, 2021 (addressed to me at Jamestown Village), I&E notified Westover that I&E
6 believed Westover was in violation of 49 CFR §§ 192.13 and 192.605 for failing to have
7 an O&M Manual. It was my understanding that the O&M Manual was only supposed to
8 address the system at Jamestown Village. I&E requested that Westover demonstrate by
9 March 17, 2021 that Westover had developed and implemented an O&M Manual and a
10 process to document and track all records required by the O&M Manual. **Westover**
11 **Exhibit 5.**

12 By letter dated March 30, 2021 (again, addressed to me at Jamestown Village), I&E
13 notified Westover that Westover "had been identified as a master meter operator." That
14 correspondence further notified Westover that I&E believed Westover was in violation of
15 49 CFR § 190.203(a) (regarding permitting I&E personnel, as agents of the U.S.
16 Department of Transportation's Pipeline and Hazardous Materials Safety Administration
17 ("PHMSA"), to enter and inspect properties and records). **Westover Exhibit AS-6.** This
18 correspondence, however, only mentioned attempts to conduct inspections of systems
19 and/or records in Willow Grove (the location of Jamestown Village). I&E requested a
20 response by April 29, 2021. Westover did not respond.

21 On June 2, 2021, I&E issued a warning letter to Westover (addressed to me at
22 Westover's corporate headquarters). This letter stated:

23 After ensuring that the leak [at Jamestown Village] was properly repaired
24 and service restored, the Safety Division shifted the focus of its

1 investigation to examine whether *the pipeline facilities at the Jamestown*
2 *Village Apartments* constitute a “master meter system” as defined in 49
3 CFR § 191.3 and subject to Commission oversight through the Gas and
4 Hazardous Liquids Pipelines Act (“Act 127”), 58 P.S. §§ 801.101, *et seq.*

5 **Westover Exhibit AS-7.**

6 It was not until correspondence dated July 28, 2021 that I&E stated that the nature
7 of the investigation of Westover had changed. **Westover Exhibit AS-8.** It was no longer
8 focused on Jamestown Village. According to I&E, its investigation now:

9 . . . focuses on determining which apartment complexes owned or managed
10 by Westover meet the definitions of ‘pipeline operator’ and ‘master meter
11 system’ set forth in 58 P.S. § 801.102 and 49 CFR § 191.3, respectively,
12 such that compliance with Federal pipeline safety laws and regulations,
13 including 49 CFR Part 192, is obligatory.

14 I&E now took the position that the procedures manual to be developed by Westover was
15 to pertain to “all jurisdictional master meter systems” operated at any apartment complex
16 in Pennsylvania. Among other things, I&E demanded that, by August 9, 2021, Westover
17 compile a list of all Westover properties with a jurisdictional “master meter system,” and
18 that, by August 24, 2021, Westover develop and implement a procedures manual for all
19 jurisdictional master meter locations.

20
21 **Q. SO FAR, YOUR TESTIMONY ABOUT I&E’S INVESTIGATION HAS FOCUSED**
22 **ON CORRESPONDENCE THAT I&E SENT TO WESTOVER. DID**
23 **WESTOVER AND I&E PERSONNEL EVER MEET TO DISCUSS I&E’S**
24 **INVESTIGATION?**

25 **A.** Of course, although the COVID-19 Pandemic required that we meet virtually sometimes.
26 Attached is a discovery answer from I&E, **Westover Exhibit AS-9**, which indicates that
27 I&E personnel met with Westover personnel on May 23, 2018, May 29, 2018, December

1 2, 2020 and September 20, 2021. In addition, several representatives of Westover
2 (including me) met with Scott Orr and Terri Cooper-Smith of I&E on July 15, 2021. At
3 first, Mr. Orr took the position that Jamestown Village was jurisdictional because
4 Westover-owned meters were on each building. However, Peter Quercetti produced
5 pictures of the meters on each building and said that the pictures showed the meters were
6 PECO meters. After examining the pictures, Ms. Cooper-Smith agreed that the meters on
7 the buildings are PECO-owned meters.

8 Due to the location of PECO meters on the buildings, and the abandonment of the
9 underground gas pipe between Buildings T and V, everyone at the meeting agreed that
10 Jamestown Village is not a “master meter system” subject to Commission jurisdiction
11 pursuant to Act 127.

12 In February, 2023, I&E changed its position again. **Westover Exhibit AS-10** pp.
13 5-6. According to I&E, the fact that Westover bills building occupants using submeters
14 makes this System a “master meter system.” This is in contrast to Carlisle Park, which
15 I&E alleges is a “master meter system” because there is a single meter in the complex and
16 no submeters are used to bill building occupants. **Westover Exhibit AS-10** p. 6. I&E does
17 not explain how the different facts at these two apartment complexes satisfy the legal
18 definition of a “master meter system.” The lack of an adequate explanation, together with
19 I&E’s inconsistent positions and repeated changes of position, demonstrate to me that I&E
20 does not understand what is and is not a “master meter system.”

21
22 **Q. ARE YOU AWARE THAT I&E PERSONNEL PERFORMED FIELD**
23 **INSPECTIONS AT VARIOUS WESTOVER PROPERTIES?**

1 A. Yes. **Westover Exhibit AS-9**, which I discussed a minute ago, indicates that I&E
2 personnel inspected numerous Westover properties between July 30 and September 10,
3 2021.

4
5 **Q. DID WESTOVER PREPARE THE O&M MANUAL, ASI&E DEMANDED?**

6 A. Yes. We worked with a consultant, The Oak Tree Group, LLC (“Oak Tree”) to develop a
7 draft O&M Manual. On September 20, 2021, representatives of Westover and Oak Tree
8 met with I&E personnel to discuss the draft O&M Manual. Oak Tree subsequently
9 prepared revisions to the draft O&M Manual, but the document was never finalized
10 because, after consulting experienced public utility counsel, Westover subsequently took
11 the position that its Systems are not subject to Commission jurisdiction pursuant to Act
12 127.

13
14 **Q. TELL ME ABOUT OAK TREE.**

15 A. It is a consulting firm of retired Commission employees (Paul Metro, Anthony Rametta,
16 and Andrew Geibel). At the time of the outage at Jamestown Village, Mr. Metro was the
17 Manager of I&E’s Safety Division, which includes the Pipeline Safety Division. He
18 therefore supervised the investigation at Jamestown Village. He retired from the
19 Commission in August 2019.

20
21 **Q. DID WESTOVER RETAIN OAK TREE TO ASSIST IN COMPLYING WITH ACT**
22 **127?**

1 A. No. Westover did not enter into an agreement with Oak Tree. Westover had an agreement
2 with Entech, who found Oak Tree. Oak Tree contracted with and billed Entech
3 Engineering, Inc. (“Entech”). Westover then reimbursed Entech for these expenses.
4

5 **Q. PLEASE DESCRIBE THE FIRST MEETING THAT WESTOVER HAD WITH**
6 **I&E AND OAK TREE.**

7 A. During a meeting on September 20, 2021, Mr. Orr told Oak Tree that Oak Tree needed to
8 make a site visit to each of Westover’s natural gas systems and determine which ones are
9 subject to Commission jurisdiction. This seemed odd to me, considering that I&E staff
10 had already visited so many Westover properties, yet did not seem to know which ones
11 were “master meter systems” subject to Commission jurisdiction. It seemed to me that
12 I&E staff was looking to Mr. Metro for guidance. This interaction between I&E and Oak
13 Tree started my realization that I&E did not have a clear idea of what systems are and are
14 not subject to Commission jurisdiction.
15

16 **Q. IS OAK TREE CONTINUING TO DO WORK, WITH RESPECT TO**
17 **WESTOVER’S GAS SYSTEMS?**

18 A. No. Westover felt uncomfortable with the coziness of the relationship between I&E and
19 Oak Tree. Westover also concluded that I&E was fishing for information and did not seem
20 to have a clear idea of what was a “master meter system.” Specifically, I was concerned
21 that Mr. Orr was asking our consultant to tell I&E which Westover systems were “master
22 meter systems” subject to PUC jurisdiction.
23

1 **Q. WHAT OTHER ACTIONS DID WESTOVER TAKE TO COOPERATE WITH**
2 **I&E’S INVESTIGATION?**

3 **A.** We sent them some of the documents that they requested. For example, in December 2020,
4 I sent Mr. Orr a list of all Pennsylvania apartment complexes with gas service operated by
5 Westover. I subsequently sent him a list of all Pennsylvania commercial properties with
6 gas service operated by Westover.

7 Westover also took some of the actions that I&E demanded of us. For example,
8 Scott Orr orally threatened to file a complaint against Westover if we did not open a
9 pipeline operator account with PHMSA. Westover opened such an account in October,
10 2021. I&E’s letter of July 28, 2021 told us to develop a map of all jurisdictional master
11 meter locations in Pennsylvania. We engaged Entech to complete maps of gas systems
12 operated by Westover.

13 In addition, at the insistence of I&E personnel, on June 28, 2021, Westover filed an
14 Act 127 Pennsylvania Pipeline Operator Annual Registration Form (“Act 127
15 Registration”) to register Jamestown Village as a pipeline operator. This filing received
16 Docket No. A-2021-3027219. **Westover Exhibit AS-11.** As I said, this form was filed at
17 the insistence of I&E personnel – it should not be taken as an admission that Jamestown
18 Village is subject to Commission jurisdiction.

19 Following the July 15, 2020 virtual meeting at which Westover and I&E personnel
20 agreed that Jamestown Village is not a “master meter system,” I requested that the
21 Commission cancel this Act 127 Registration. **Westover Exhibit AS-12.** Since
22 Jamestown Village had reported no pipeline assets pursuant to Act 127, the Commission

1 removed Jamestown Village from the Commission's registry of pipeline operators.

2 **Westover Exhibit AS-13.**

3
4 **Q. WHY DID WESTOVER CANCEL THIS ACT 127 REGISTRATION?**

5 **A.** First, as discussed above, based on Westover's July 15, 2021 meeting with I&E, it was my
6 understanding that I&E agreed that Jamestown Village is not a pipeline operator subject to
7 Act 127. Second, Mr. Orr recommended that Westover (rather than each individual
8 apartment complex) should register as the pipeline operator. Consequently, on August 6,
9 2021, I filed another Act 127 Registration, this time listing Westover as the pipeline
10 operator. This Act 127 Registration, which received Docket No. A-2021-3028141,
11 pertained to the following apartment complexes: Carlisle Park, Gladstone Towers,
12 Hillcrest, Lansdowne Towers, Main Line Berwyn, Mill Creek Village I, Norriton East, Oak
13 Forest, Park Court, Valley Stream and Willow Run. In addition, the registration listed the
14 Bryn Mawr Medical Building (commercial properties located at 600 Haverford Road,
15 Haverford, Pennsylvania and at 931 Haverford Road, Haverford, Pennsylvania).
16 **Westover Exhibit AS-14.** Nevertheless, this Act 127 Registration should not be construed
17 as an admission that any of Westover's Systems are subject to Commission jurisdiction
18 pursuant to Act 127.

19 On September 27, 2021, I filed a new Act 127 Registration to correct the Act 127
20 Registration filed on August 6, 2021. I had inadvertently listed Westover's miles of
21 pipeline as both gas pipelines and hazardous liquid pipelines. On the corrected form, I
22 showed a total of 3.6 miles of gas pipelines and 0 miles of hazardous liquid pipelines.

23 **Westover Exhibit AS-15.**

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Q. HAS WESTOVER MADE ADDITIONAL FILINGS WITH THE COMMISSION SINCE SEPTEMBER 27, 2021?

A. Yes. On February 22, 2022, I filed the Act 127 Registration for Westover for 2022 together with the filing fee of \$250. I attached a letter stating that the payment was being made under protest based on the on-going proceedings at Docket Nos. P-2021-3030002 and C-2022-3030251, in which Westover contends that it does not need to register pursuant to Act 127. **Westover Exhibit AS-16.**

On September 23, 2022, I paid an assessment of \$1,278.00 on behalf of Westover.

Q. WESTOVER’S ACT 127 REGISTRATION, DATED SEPTEMBER 27, 2021, LISTED AN ATTORNEY FOR WESTOVER. IS THAT ATTORNEY EXPERIENCED IN PENNSYLVANIA PUBLIC UTILITY LAW?

A. No. Mr. Damico is Westover’s real estate transaction attorney.

In October, 2021, Westover retained Cozen O’Connor (whose attorneys are experienced in Pennsylvania public utility law) to represent it with regard to I&E’s investigation. Our counsel had a phone call with counsel for I&E. Several days later, in an apparent act of retaliation, Westover received interrogatories from I&E focusing on whether residents were being charged rates higher than the residential rate contained in the applicable NGDC’s tariff. Westover timely responded to those interrogatories, and Westover has not heard anything further from I&E regarding this issue.

By correspondence dated November 4, 2021, Westover’s public utility counsel advised I&E of Westover’s position that it does not operate any “master meter systems,”

1 as that term is defined in the Federal pipeline safety laws. **Westover Exhibit AS-17.**
2 Westover also represented that it had already spent more than \$70,000 in response to the
3 activities of I&E’s field inspectors. I&E responded to the November 4, 2021
4 correspondence by cancelling a scheduled November 5, 2021 meeting with Oak Tree.
5 Complaint ¶ 39.

6 By correspondence dated November 22, 2021, I&E notified Westover that I&E
7 disagreed with Westover’s position. **Westover Exhibit AS-18.**

8
9 **Q. WHAT DID WESTOVER DO AFTER RECEIVING I&E’S NOVEMBER 22, 2021**
10 **CORRESPONDENCE?**

11 **A.** In a good faith effort to resolve uncertainty over whether Westover’s Systems are subject
12 to Act 127, Westover filed a Petition for Declaratory Order on December 13, 2021.⁵ This
13 filing received Docket No. P-2021-3030002. I&E filed an Answer Opposing the Original
14 Petition, but I&E did not wait for the Commission to issue a decision in that proceeding.
15 Instead, I&E filed the Complaint on the same day that it filed its Answer Opposing the
16 Original Petition.

17
18 **I&E’S ALLEGATIONS OF VIOLATIONS BY WESTOVER**

19 **Q. I&E HAS ALLEGED THAT WESTOVER FAILED TO COMPLY WITH ACT 127**
20 **BY FAILING TO FILE TIMELY REPORTS WITH THE COMMISSION IN 2019-**

⁵ I will refer to this filing as the “Original Petition.” Westover filed an Amended Petition for Declaratory Order (“Amended Petition”) on May 11, 2022. For ease of reference, I will refer to the Original Petition, as amended, as the “Petition.”

1 **2021, AND BY FAILING TO PAY AN ANNUAL ASSESSMENT FOR THE YEARS**
2 **2019-2020 AND 2020-2021. HOW DO YOU RESPOND?**

3 **A.** Westover does not own or operate a “master meter system” regulated under Federal
4 pipeline safety laws. Therefore, Act 127 does not apply to Westover, and Westover is not
5 required to file Act 127 Registrations with the Commission. Moreover, since Act 127 does
6 not apply to Westover, Act 127 does not require Westover to pay an annual assessment to
7 the Commission as an Act 127 pipeline operator.

8
9 **Q. I&E HAS ALLEGED THAT WESTOVER FAILED TO DEMONSTRATE**
10 **COMPLIANCE WITH CERTAIN SECTIONS OF 49 CFR PART 192. HOW DO**
11 **YOU RESPOND?**

12 **A.** Westover does not own or operate a “master meter system” regulated under Federal
13 pipeline safety laws. Therefore, Westover is not required to comply with 49 CFR Part 192.

14
15 **Q. I&E HAS ALLEGED THAT WESTOVER VIOLATED ACT 127 BY FAILING TO**
16 **PERMIT I&E PERSONNEL TO INSPECT WESTOVER’S RECORDS,**
17 **PROCEDURES AND FACILITIES. HOW DO YOU RESPOND?**

18 **A.** It is hard to respond. It is not clear when Westover allegedly failed to permit I&E personnel
19 to inspect its facilities and systems. I&E admits that it inspected a number of Westover
20 properties before this case began. **Westover Exhibit AS-9.**

21 More importantly, Westover does not own or operate a “master meter system”
22 regulated under Federal pipeline safety laws. Therefore, Act 127 does not apply to

1 Westover, and Westover is not required to permit I&E personnel to inspect Westover's
2 records, procedures and facilities.

3
4 **I&E'S REQUEST FOR CIVIL PENALTIES**

5 **Q. ARE YOU AWARE THAT I&E HAS ASKED THE COMMISSION TO IMPOSE A**
6 **CIVIL PENALTY IN THE AMOUNT OF \$200,000 ON WESTOVER?**

7 **A.** Yes. I&E does not explain how it arrived at this amount. In my opinion, this amount seems
8 arbitrary and capricious, based on the alleged violations. I&E alleges three counts of
9 failing to file Act 127 Registrations with the Commission, two counts of failing to pay an
10 annual assessment to the Commission, and "multiple counts" of failing to demonstrate
11 compliance with certain administrative requirements of 49 CFR Chapter 192(*e.g.*, failing
12 to produce records illustrating that the gas in Westover's distribution lines contains the
13 proper concentration of odorant.).

14
15 **Q. ARE YOU AWARE THAT THE COMMISSION HAS A POLICY STATEMENT**
16 **REGARDING THE FACTORS AND STANDARDS FOR EVALUATING**
17 **LITIGATED AND SETTLED PROCEEDINGS (THE "POLICY STATEMENT")?**

18 **A.** My counsel has told that that, under the Policy Statement, the Commission considers ten
19 factors when deciding the appropriate civil penalty in a proceeding. In this case, the
20 appropriate civil penalty is \$0 because Westover is not subject to Act 127 and therefore did
21 not violate it. Nevertheless, I will discuss each factor in the Policy Statement.

22 One factor the Commission considers is whether the conduct at issue was of a
23 serious nature. Although Westover has disputed Commission jurisdiction, Westover has

1 made reasonable efforts to provide gas to residents in a safe manner. As a result of those
2 efforts, there have been no accidents causing property damage or personal injury or death
3 in over 50 years. Westover Statement No. 1.

4 Although I&E claims that Westover’s Systems pose an imminent threat to public
5 safety, Answer in Opposition to Amended Petition p. 3, I&E has not charged Westover
6 with any violations arising from unsafe conditions that pose an immediate danger to
7 residents. Instead, the violations with which Westover is charged are filing and
8 administrative violations: failing to file Act 127 Registrations with the Commission in the
9 past, Complaint ¶ 45a, failing to pay assessments to the Commission in the past, Complaint
10 ¶ 45b, failing to document procedures and maintain records, Complaint ¶ 45c, failing to
11 prepare an O&M Manual, Complaint ¶ 45d, failing to document emergency plans,
12 Complaint ¶ 45e, failing to keep records demonstrating that the gas it received from the
13 public utility contains the proper concentration of odorant, Complaint ¶ 45f, failing to
14 establish and maintain records concerning a qualification program, Complaint ¶¶ 45g-h,
15 and not permitting I&E personnel to inspect Westover’s records, procedures and facilities
16 during the period that Westover disputed I&E’s jurisdiction over its Systems. Complaint
17 ¶ 45i. The alleged violations are paperwork violations and should not be considered
18 serious. As a result, they do not warrant a large civil penalty.

19 Another factor that the Commission considers is whether the consequences of the
20 conduct were serious. I&E alleges that no property damages or personal injuries have
21 occurred at Westover’s facilities “out of sheer fortune.” I&E’s Reply to New Matter pp.
22 3-4. I&E contends that occupants of Westover’s apartment complexes have been impacted
23 by the “potential for serious harm,” *id.* p. 4, yet I&E has only alleged filing and

1 administrative violations. No occupants of the buildings suffered any consequences from
2 the violations with which Westover is charged.

3 As Peter Quercetti discusses in his testimony, Westover Statement No. 1, Westover
4 has an excellent safety record. In 50 years of operating gas systems at apartment complexes
5 in Pennsylvania, Westover is not aware of any gas incidents causing property damage or
6 personal injury at any of the properties it has operated. During the period since I&E's
7 investigation began in May 2018, the only gas incidents at any of the Systems involved in
8 this case was: a leak at Hillcrest, several leaks that I&E discovered *in the NGDC's facilities*
9 at Woodland Plaza,⁶ and leaks that I&E discovered in Westover's facilities at Gladstone
10 Towers.⁷ All of these leaks were quickly repaired without incident; they did not cause any
11 personal injuries or property damage.

12 The only violations alleged by I&E in this case are administrative and filing
13 violations. These alleged violations did not have serious consequences for customers, and
14 do not warrant a high civil penalty.

15 Another factor the Commission considers is whether the conduct was intentional or
16 negligent. As discussed above, Westover did not file reports, pay assessments, prepare
17 manuals or maintain records based on a good faith belief that Act 127 and the Federal
18 pipeline safety laws do not apply to Westover's Systems. Westover's belief is consistent
19 with the Frequently Asked Questions brochure distributed by the Commission. **Westover**
20 **Exhibit AS-3.** Moreover, based on a review of the list of entities that have registered as
21 Act 127 pipeline operators, it seems to me that very few owner/operators of apartment
22 complexes have registered with the Commission as a "pipeline operator" under Act 127.

⁶ This leak was discovered during I&E's inspection of the System as part of the discovery in this case.

⁷ This leak was discovered during I&E's inspection of the System as part of the discovery in this case.

1 This fact illustrates that Westover’s actions were based on a reasonable interpretation of
2 Act 127.

3 There are no Commission regulations on point, nor are there any Commission
4 decisions on point. Westover sought the advice of experienced public utility counsel and
5 requested a declaratory order from the Commission before I&E filed its Complaint. Under
6 these circumstances, Westover’s conduct should not be considered an intentional violation
7 meriting a higher penalty.

8 The Commission also considers whether the regulated entity made efforts to
9 address the conduct at issue and prevent similar conduct in the future. Although Westover
10 does not believe that its existing Systems meet the definition of a “master meter system”
11 in 49 CFR § 191.3, Westover has begun the process of modifying several of its Systems to
12 strengthen that legal position. See Westover Statement No. 1. Specifically, Westover has
13 begun the process of modifying its Systems to have the NGDC take over all underground
14 gas piping and to place meters on individual buildings,⁸ so that Westover’s Systems will
15 only involve interior piping (as much as possible). Westover has committed to paying
16 hundreds of thousands of dollars to make these modifications. In view of Westover’s
17 commitment to modify its Systems, a high penalty is not warranted.

18 The Commission also considers the number of customers affected and the duration
19 of the violation. I&E contends that it is not required to present evidence of actual harm
20 because unlawful conduct by its nature is injurious to the public. Answer to New Matter
21 ¶ 53. This reasoning, however, would lead to the conclusion that all violations should

⁸ In my opinion, to improve safety, the Commission should encourage NGDCs to take over underground pipes and install meters on apartment buildings, rather than treating apartment owner/operators as “pipeline operators.” NGDCs have more expertise in operating gas pipelines in compliance with the Federal pipeline safety laws than do apartment complex owner/operators.

1 receive a serious penalty. I doubt that the Commission intended this result when it adopted
2 the Policy Statement. As discussed above, no customers were adversely affected by the
3 filing and administrative violations with which Westover is charged. This factor does not
4 warrant a severe penalty.

5 The Commission also considers the compliance history of the entity that committed
6 the violation. The Commission has not previously found that Westover is subject to
7 Commission regulation, or that Westover has violated any statute, regulation or order
8 enforced by the Commission. Westover is not a repeat offender who flouts the law or the
9 Commission's authority. Westover has a good faith belief that it is not subject to
10 Commission jurisdiction and filed the Petition asking the Commission to resolve
11 uncertainty about the application of Act 127 to the Systems.

12 Another factor that the Commission considers is whether the regulated entity acted
13 in bad faith, actively concealed violations, or attempted to interfere with Commission
14 investigations. Westover has not actively concealed any violations. In addition, Westover
15 has acted in good faith, consistent with the Frequently Asked Questions brochure and
16 consulting with experienced public utility counsel. In the end, when Westover could not
17 resolve its dispute with I&E, Westover asked the Commission to issue a declaratory order.
18 Such a filing is inconsistent with the notion that Westover acted in bad faith or actively
19 concealed a violation.

20 As discussed above, since July 2021 – when the Commission stopped focusing on
21 Jamestown Village and began investigating Westover's other gas systems – Westover has
22 provided extensive information to I&E (*e.g.*, lists of Westover's residential and commercial
23 properties that utilize natural gas) and complied with many requests from I&E personnel

1 (e.g., opening a pipeline account with PHMSA, and twice registering with the Commission
2 as a pipeline operator). Westover certainly did not interfere with I&E's investigation.

3 I do not believe this case involves many disputes of material fact; the parties'
4 dispute is about the application of the law to those facts. Significantly, this case appears
5 to involve multiple issues of first impression at the Commission (e.g., whether the
6 Commission has jurisdiction over a natural gas system located entirely within the
7 boundaries of an apartment complex, whether the Commission has jurisdiction over piping
8 inside an apartment building, and whether the Commission has jurisdiction over a gas
9 system that burns all the natural gas purchased by the landlord and only supplies heat and/or
10 hot water to building occupants). Westover should not be treated harshly because it had a
11 reasonable disagreement with I&E over these thorny legal issues.

12 I do not believe that the Commission's Policy Statement was intended to take away
13 a party's right to litigate issues by offering reasonable, good faith arguments for the
14 Commission's consideration. If a final, unappealable order is entered in this matter
15 requiring Westover to comply with Act 127, Westover will do so. The Commission should
16 not impose a harsh penalty on Westover for pursuing its right to seek a favorable resolution
17 of its dispute with I&E.

18 The Commission also considers the amount of the civil penalty necessary to deter
19 future violations. A large penalty is not necessary to deter future violations by Westover.
20 Westover's Systems are small; Westover's September 27, 2021 Act 127 Registration
21 indicates that Westover operates only 3.6 miles of gas pipelines. Moreover, Westover has
22 already undertaken extensive and costly modifications to its Systems to strengthen its legal

1 position that its Systems are not “master meter systems” as that term is defined in 49 CFR
2 § 191.3.

3 The Commission also considers past Commission decisions in similar situations.
4 The Commission has not previously considered the applicability of Act 127 to apartment
5 complexes. This proceeding raises a number of issues that have not previously been
6 considered by the Commission. Westover has reasonable legal arguments on each of these
7 issues. Westover proactively sought a Commission ruling resolving these issues.
8 Westover should not be penalized for being the test case.

9 The final factor is other relevant factors. 52 Pa. Code § 1201(c)(10). I am advised
10 by counsel that imposing a penalty on Westover would violate its due process rights under
11 the United States⁹ and Pennsylvania Constitutions¹⁰ because Westover did not have fair
12 notice of conduct that is forbidden or required. The Commission has not promulgated
13 regulations addressing the numerous issues of first impression presented in this case. The
14 Commission published guidance in the Frequently Asked Questions brochure, and
15 Westover complied with that guidance, but I&E now seeks a contrary ruling by the
16 Commission. Finally, as discussed above, this case presents several issues of first
17 impression for the Commission.

18 Additionally, I am advised by counsel that the penalty sought by I&E would violate
19 the Excessive Penalties Clause of the Pennsylvania¹¹ and United States Constitutions.¹²
20 The proposed \$200,000 civil penalty is grossly disproportionate to the filing and
21 administrative offenses with which Westover is charged. There are no previous cases in

⁹ U.S. CONST. amend. XIV § 1.

¹⁰ PA CONST. art. I §§ 1 and 11.

¹¹ PA. CONS. art. I § 13.

¹² U.S. CONST. amend. VIII.

1 which the Commission has imposed a significant civil penalty on the owner/operator of an
2 apartment complex for violating Act 127. In fact, few if any similarly-situated
3 owner/operators of apartment complexes have even been charged with violating Act 127.

4 Finally, it is worth noting that I&E personnel inspected many of Westover's
5 properties, but could not determine whether Westover's Systems were or were not "master
6 meter systems." They asked Oak Tree to make that determination for them. If I&E's
7 investigators were unable to determine that Westover's Systems are subject to Act 127, the
8 Commission should not treat Westover harshly for determining that its Systems are not
9 subject to Act 127.

10 For all of these reasons, the Commission should not impose a \$200,000 civil penalty
11 on Westover.

12
13 **REQUEST FOR RELIEF**

14 **Q. WHAT IS WESTOVER REQUESTING FROM THE COMMISSION IN THIS**
15 **PROCEEDING?**

16 **A.** Westover is asking the Commission to declare that its Systems (as identified in the
17 Amended Petition, in I&E's Complaint, or in Westover's Answer and New Matter to that
18 Complaint) are not subject to Commission jurisdiction. In addition, Westover is asking the
19 Commission to declare that Westover's Act 127 Registration is null and void because
20 Westover is not, and never has been, a pipeline operator within the meaning of Act 127
21 with respect to any of the Systems listed on that form. The General Assembly did not
22 intend for Act 127 to apply to landlords that purchase gas from NGDCs and resell it to

1 building occupants. Even if Act 127 does apply, Westover's Systems do not satisfy the
2 definition of a "master meter system."

3 Consequently, Westover requests that the Commission grant the Petition and
4 declare that: Westover's Systems are not subject to Act 127 and Westover's Act 127
5 Registration is null and void. Westover also asks that the Commission dismiss the
6 Complaint.

7
8 **CONCLUSION**

9 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

10 **A.** Yes. However, I reserve the right to supplement my testimony as additional issues or facts
11 arise during the course of this proceeding. Thank you.

WESTOVER EXHIBIT AS-1
PENNSYLVANIA SENATE JOURNAL
DECEMBER 13, 2011

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, DECEMBER 13, 2011

SESSION OF 2011 195TH OF THE GENERAL ASSEMBLY

No. 73

SENATE

TUESDAY, December 13, 2011

The Senate met at 1 p.m., Eastern Standard Time.

The PRESIDENT pro tempore (Senator Joseph B. Scarnati III) in the Chair.

PRAYER

The Chaplain, Reverend JOHN BORROUGHS, Pastor of Calvary Baptist Church, Avondale, offered the following prayer:

Let us pray.

Heavenly Father, we stand before a people who have a heavy burden, that burden of leading the people of the State of Pennsylvania and, Lord, nationally as well. You instruct us in Your word to pray for them and to lift them up before the throne of God, and we do that, Lord, at this time. As I say, it is an awesome responsibility. They need wisdom, wisdom from on high, and I pray, O God, that truly You would do that.

Lord, we are seeing a time where people are turning their backs on Thee. You are being thrown out of school, thrown out of church, and thrown out of government. I pray, God, that truly, Your mercy and Your grace would be with these dear folks here today, and that, indeed, they would begin each day as they get up to look to You for wisdom to make decisions that day.

So, Father, to that end, we pray for these Senate folks here, Lord, and pray that, indeed, You would guide them and direct them, even in the course of the actions today that will be taken. But, Father, help them, again, just to draw close to You, because man's wisdom fails us, but Thy wisdom is always right.

So, Father, we do pray for our Senate people here today and for all those involved. We thank You for the privilege of coming, and, Lord, we just ask that truly, again, You would bless and guide them. In Jesus' precious name, amen.

The PRESIDENT pro tempore. The Chair thanks Reverend Borroughs, who is the guest today of Senator Pileggi.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

The PRESIDENT (Lieutenant Governor Jim Cawley) in the Chair.

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE BOARD OF TRUSTEES
OF POLK CENTER**

December 13, 2011

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Sarah R. Gibson, 14910 Route 322, Clarion 16214, Clarion County, Twenty-first Senatorial District, for appointment as a member of the Board of Trustees of Polk Center, to serve until the third Tuesday of January 2017, and until her successor is appointed and qualified, vice Josephine Zuck, Oil City, deceased.

TOM CORBETT
Governor

**MEMBER OF THE BOARD OF TRUSTEES
OF WARREN STATE HOSPITAL**

December 13, 2011

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Andrea M. Grolemond, 6748 Highland Road, Kane 16735, McKean County, Twenty-fifth Senatorial District, for reappointment as a member of the Board of Trustees of Warren State Hospital, to serve until the third Tuesday of January 2013, and until her successor is appointed and qualified.

TOM CORBETT
Governor

**RECALL COMMUNICATIONS
REFERRED TO COMMITTEE**

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER

HB 170 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 210 (Pr. No. 2503) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of December 19, 1990 (P.L.1234, No.204), known as the Family Caregiver Support Act, further providing for intent, for definitions, for caregiver support program, for reimbursements and for entitlement not created.

Considered the third time and agreed to,

On the question,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Alloway	Erickson	Orie	Vance
Argall	Farnese	Piccola	Vogel
Baker	Ferlo	Pileggi	Ward
Blake	Folmer	Pippy	Washington
Boscola	Fontana	Rafferty	Waugh
Brewster	Gordner	Robbins	White Donald
Browne	Greenleaf	Scarnati	White Mary Jo
Brubaker	Hughes	Schwank	Williams
Corman	Kasunic	Smucker	Wozniak
Costa	Kitchen	Solobay	Yaw
Dinniman	Leach	Stack	Yudichak
Earll	McIlhinney	Tartaglione	
Eichelberger	Mensch	Tomlinson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same without amendments.

HB 344 (Pr. No. 2816) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for gas and hazardous liquids pipelines and for powers and duties of the Pennsylvania Public Utility Commission; and imposing civil penalties.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Luzerne, Senator Baker.

Senator BAKER. Mr. President, until a few years ago, not many people were giving thought to pipeline rights-of-way, the thickness of pipes, the quality of the welds, or the sufficiency of inspections before the pipes were buried, nor was there a whole lot of attention paid to the occasional siting of a gas compressor station. Today, those considerations are of utmost importance to many residents in the Marcellus Shale drilling areas. As residents have inquired about the rules and regulations and oversight of this infrastructure, they are dismayed to discover there are alarming holes in the system.

Today is day three of a comprehensive look by The Philadelphia Inquirer into the concerns and consequences. It is hard to imagine a clearer or more timely call to action. Look at the pipeline map for Bradford County. It begins to resemble the street map of a metropolitan area. For safety reasons, and for reasons of environmental protection, we need to know where the pipelines are, we need to know how they are constructed, to standards that are suitable for the volume and pressure of the gas they are conveying, and we need to know they are located sufficiently far away from people and resources that we want to protect.

Through this bill, we begin to fill the gaps in State law and regulation. The Public Utility Commission has given safety jurisdiction over Classes 2, 3, and 4 gas and hazardous liquid pipelines. As more permits are approved and more exploratory drilling takes place and more wells come into active production, it is imperative for us to insure greater public safety and environmental protection.

This is not the final word on this issue. Gathering pipelines referred to as Class 1 are prevalent in my area and other parts of the Commonwealth. The Federal government chooses not to inspect these lines because they are located in rural, less populated areas. Thus, I believe it has become a State responsibility, a priority one at that. This bill provides for Class 1 registry, so at least we will know where the lines are.

Subsequent legislation that I am introducing will give the PUC the same authority to conduct safety inspections on Class 1 lines as it gains to inspect in the other classes under the bill before us. It will bring such lines under the Pennsylvania One Call System. When we give this authority, we must also provide the means to enforce it. None of this is a threat to the viability of the industry. We must be leaving any aspects of drilling, compressing, and shipping beyond the reaches of standards and overseers that would pose a substantial threat to our residents and communities. I urge an affirmative vote on the bill.

Thank you, Mr. President.

The PRESIDING OFFICER (Senator John C. Rafferty, Jr.) in the Chair.

LEGISLATIVE LEAVE CANCELLED

The PRESIDING OFFICER. Senator Solobay has returned, and his temporary Capitol leave is cancelled.

And the question recurring, Shall the bill pass finally?

The PRESIDING OFFICER. The Chair recognizes the gentleman from Chester, Senator Dinniman.

Senator DINNIMAN. Mr. President, I rise to support Senator Baker's bill. I think she said a key word when she said that we have not completed the task and she talked about subsequent legislation.

You see, the pipeline issue is not just in the Marcellus Shale area, the pipeline issue is across this Commonwealth, especially in southeastern Pennsylvania. You know, there is no profit from the Marcellus Shale unless it gets to market, unless it gets to the ports of Philadelphia and Wilmington, and other places. So, every single citizen in this Commonwealth is going to be impacted by Marcellus Shale gas, as it goes from the well to the port and then to the refinery. We must assure every single citizen in this Commonwealth that they are going to be safe.

We must protect the environment, and we must make sure that, at least in the southeast and other areas, where we have invested millions of dollars on easements, on the protection of our rivers and streams, on the preservation of open space, that that is not hurt, that that work, over many decades, is not thrown asunder by these pipelines.

I look forward to working with Senator Baker on that subsequent legislation. This is a first step, a good step, but we still have much to do to make sure that all Pennsylvanians are safe, to make sure that we protect the water and the environment of this Commonwealth, not just at the well sites, but in every place in this Commonwealth that a gas line goes through.

Thank you, Mr. President.

And the question recurring, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Alloway	Erickson	Orie	Vance
Argall	Farnese	Piccola	Vogel
Baker	Ferlo	Pileggi	Ward
Blake	Folmer	Pippy	Washington
Boscola	Fontana	Rafferty	Waugh
Brewster	Gordner	Robbins	White Donald
Browne	Greenleaf	Scarnati	White Mary Jo
Brubaker	Hughes	Schwank	Williams
Corman	Kasunic	Smucker	Wozniak
Costa	Kitchen	Solobay	Yaw
Dinniman	Leach	Stack	Yudichak
Earl	McIlhinney	Tartaglione	
Eichelberger	Mensch	Tomlinson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

BILL OVER IN ORDER

SB 371 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILLS ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 730 (Pr. No. 1848) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, in corporate powers, further providing for real property and for personal property; and, in contracts, further providing for letting contracts.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-50

Alloway	Erickson	Orie	Vance
Argall	Farnese	Piccola	Vogel
Baker	Ferlo	Pileggi	Ward
Blake	Folmer	Pippy	Washington
Boscola	Fontana	Rafferty	Waugh
Brewster	Gordner	Robbins	White Donald
Browne	Greenleaf	Scarnati	White Mary Jo
Brubaker	Hughes	Schwank	Williams
Corman	Kasunic	Smucker	Wozniak
Costa	Kitchen	Solobay	Yaw
Dinniman	Leach	Stack	Yudichak
Earl	McIlhinney	Tartaglione	
Eichelberger	Mensch	Tomlinson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

HB 1458 (Pr. No. 2877) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, in general provisions, further providing for definitions; in registration of vehicles, further providing for display of registration plate; in drivers' licenses, further providing for judicial review and for cancellation; in commercial drivers, further providing for definitions and for requirement, providing for certification requirements, for medi-

WESTOVER EXHIBIT AS-2
NEWSPAPER ARTICLES EXPLAINING THE
REASONS FOR ENACTING ACT 127



Powerful Pipes, Weak Oversight - Pa.'s shale boom has spurred miles of pipeline construction, often with no safety rules.

December 11, 2011 | Philadelphia Inquirer, The (PA)

Author: Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS | Section: LOCAL | 4817 Words

Page: A01

[OpenURL Link](#)

Through the hilly fields here in southwestern Pennsylvania, crews worked for months this year, cutting a trench through woods and past farms for a new natural gas pipeline.

Like many other lines crisscrossing the state's Marcellus Shale regions, this pipe was big - a high-pressure steel line, 20 inches in diameter, large enough to help move a buried ocean of natural gas out of this corner of the state. It was also plenty big enough to set off a sizable explosion if something went wrong.

There was trouble on the job. Far too many of the welds that tied the pipe sections together were failing inspection and had to be done over.

A veteran welder, now an organizer for a national pipeline union, happened upon the line and tried to blow the whistle on what he considered substandard work.

But there was no one to call.

Pennsylvania's regulators don't handle those pipelines, and acknowledge they don't even know where they are. And when he reported what he saw to a federal oversight agency, an inspector told him there was nothing he could do, either.

Because the line was in a rural area, no safety rules applied.

"It's crazy," said Terry Langley, the union official, worried that any problems would literally be buried. "It seems to me that everyone is turning a blind eye."

In Pennsylvania's shale fields, where the giant Marcellus strike has unleashed a furious

surge of development, many natural gas pipelines today get less safety regulation than in any other state in America, an Inquirer review shows.

Hundreds of miles of high-pressure pipelines already have been installed in the shale fields with no government safety checks - no construction standards, no inspections, and no monitoring.

"No one - and absolutely no one - is looking," said Deborah Goldberg, a lawyer with Earthjustice, a nonprofit law firm focusing on the environment.

Belatedly, the state's elected officials and regulators are trying to catch up. The legislature is poised to give the state Public Utility Commission authority to enforce federal safety rules in the shale regions, as in other gas-producing states.

Still, because of a long-standing gap in the federal rules - the same issue that affected the line near Waynesburg - the new law would leave many gas pipelines unregulated over vast swaths of rural Pennsylvania, especially in the very shale regions that are ground zero for pipeline construction.

These new Marcellus Shale "gathering" pipelines that connect to the wells are going unregulated, even though they are large-diameter, high-pressure pipes - as powerful and potentially dangerous as the transmission lines that cut across the continent.

Although accidents in natural gas pipelines are rare, they can be devastating. Last year, 21 people died and 105 were hurt in 230 gas-line accidents in the United States, according to federal data, the highest death total in a decade.

This year, 16 people have died in gas explosions, including five people in Allentown and one in Philadelphia. The accidents in this region were all due to failures in old cast-iron pipelines, not the type of lines being installed in the shale regions.

Drilling and pipeline companies say the new generation of steel lines has never been safer. They say they have a huge financial stake in making sure the lines don't leak, and are building the pipes to meet federal standards - whether or not the rules require it.

"We're all about making sure we have safe and reliable operations in the commonwealth," said David J. Spigelmyer, vice president of Chesapeake Energy and the new chairman of the Marcellus Shale Coalition trade group.

And the industry notes that there are relatively few reports of accidents in gathering lines, and none so far in Pennsylvania.

As for the line near Waynesburg, its owner, Consol Midstream, said it also identified flawed welds, caught by independent inspectors hired by the firm. Consol fired welders and made repairs.

By using a stronger grade of steel and examining all welds, Consol ensured that the pipeline exceeded federal requirements, according to the company, a major coal and gas producer based outside Pittsburgh.

"While we are not required to do this, we felt it was very important to employ additional oversight and inspection services than is customary to protect our and the public's best interest," Joe Fink, Consol's manager, said in an e-mail.

An increasing number of Pennsylvanians in rural areas say corporate vigilance is not enough - they want government to step up oversight.

"We're taking all the risks up here. We should be afforded the same protections," said Emily Krafjack, a resident of Wyoming County and self-taught expert on pipelines who now works as a county consultant.

"We are not a risk assessment," she said. "We are real people. We pay taxes. We have kids. We are regular people like everybody else."

Second wave

Pipelines are the second wave of the Marcellus revolution that has revived Pennsylvania as a major oil- and gas-producing state.

Pennsylvania was home to the nation's first oil well, in Titusville, and the first petroleum pipeline, a 109-mile line that ended in Williamsport. The energy-drilling industry faded - until companies discovered huge gas reserves in the Marcellus Shale. This vast reservoir is now being unlocked with hydraulic fracturing, or "fracking," a technique that uses a mixture of high-pressure water, chemicals, and sand to blast gas loose from the rock.

Today, more drilling rigs are operating in Pennsylvania than on land in Louisiana, stoking the state economy with billions of dollars in royalty payments, paychecks, and infrastructure projects. Shale gas now accounts for 34 percent of U.S. production, and the Marcellus play is a major reason why.

Without pipelines, all that gas will stay in the ground. One study says Pennsylvania can expect anywhere from 10,000 to 25,000 miles of new natural gas pipelines - enough, in the higher estimate, to circle the globe at the equator.

Like fracking, the quickening pace of pipeline construction has heightened safety worries, aroused environmentalists, and divided communities.

Pipeline digs already have caused problems in Pennsylvania, with erosion clogging some high-quality streams and polluting some wells.

And the build-out will require the clearing of as much as 150,000 acres of forest, and bring dozens or even hundreds of new compressor stations, which will add to noise and air pollution.

"The scale of it, I don't think a lot of people really grasp yet," said Nels Johnson, deputy state director of the Nature Conservancy and the study's author.

While environmental inspectors keep a watch for pipeline damage to streams and landscapes, the wave of construction caught Pennsylvania's safety regulators unprepared.

Much of the gas in the state still arrives from western fields via interstate transmission

lines, which are regulated by the federal Pipeline and Hazardous Materials Safety Administration, or PHMSA.

In urban areas, the PUC regulates gas lines for utilities such as Peco Energy and PGW.

But thus far, no one in the PUC or PHMSA has kept track of what gathering pipelines have been built in the shale fields, or where they are going.

"We have no idea," said Paul Metro, the PUC's top pipeline-safety regulator.

Under federal regulations, a rural area is defined as one with 10 or fewer homes along each mile of pipe, within a quarter-mile-wide right-of-way.

The new shale-well lines are not even included in the One Call system, the "Call 811" program that aims to prevent digging accidents with buried pipelines.

"I just can't believe that," said Jim Weaver, Tioga County planner. "That to me is one of the most ludicrous situations I have ever heard of." So far, he said, companies have built or planned 1,000 miles of pipeline in his north-central Pennsylvania county.

Rules gap

The loophole for rural America is part of a much larger vacuum in government oversight for pipelines, here and in Washington:

PHMSA, the main U.S. regulator, has been criticized for decades as ineffectual and overwhelmed.

The safety of the entire system largely hinges on industry self-policing. But when inspectors have visited job sites, they have turned up some shoddy welds, substandard steel, and other potentially dangerous construction errors - particularly about five years ago, when the industry was going through another boom period.

"Houston, we have a problem," one top inspector warned at a conference with the

industry.

Throughout the country, pipeline firms have won the right to build lines with few if any restrictions from local governments. In Pennsylvania, the gas industry's clout is such that legislators are preparing to bar local officials from imposing tough restrictions on wells and pipelines in their communities.

U.S. Transportation Secretary Ray LaHood, whose agency oversees pipelines via PHMSA, has acknowledged that pipeline-safety oversight is a thin "patchwork" that needs to be made far tougher.

"We need to step up our enforcement," LaHood said in an interview. "We're going to do everything we can to make sure safety is the number-one priority when it comes to pipelines."

On Thursday, congressional leaders reached a compromise on a new pipeline-safety bill that authorizes adding 10 inspectors nationwide, requires new tests on some older pipelines, and doubles maximum fines for violations to \$2 million.

One key player in those negotiations was Rep. Bill Shuster (R., Pa.), a strong supporter of the Marcellus industry and chairman of a House subcommittee with oversight over pipelines. In the discussions, critics said, he managed to significantly weaken the bill.

Shuster says Congress needs to plug regulatory holes, but cautions that excess regulation would get in the way of industry investment. He says pipelines are safe, but can never be perfect.

"The reality is, if you're going to ship things through pipelines, there's going to be accidents," said Shuster, while the negotiations were under way. "And if you drive a car, you're going to have some accidents. If you don't want that, don't drive."

A deadly year

The massive pipeline construction in Pennsylvania is taking place during a debate in

Washington and Harrisburg on how to improve safety - questions that took on more urgency after deadly line failures in the last year.

Overall, PHMSA argues that the safety record of gas pipelines is improving. Pipeline accidents in which someone died or was badly hurt have dropped over the last 20 years, Cynthia L. Quarterman, PHMSA administrator, said in congressional testimony in June.

But other statistics point to a dramatic increase in safety failures in big gas transmission lines. "Significant" incidents - those involving injuries, big leaks, or major repairs - have shot up by 55 percent since 2003.

In fact, an Inquirer analysis found that most of the safety improvements can be traced to a decrease in excavation accidents brought on by the spread of One Call programs.

Quarterman called the increase in transmission failures "troubling," even as she acknowledged that PHMSA doesn't know the reasons behind it. "We want to stop that trend and reverse it," she said.

Last year was the worst for pipeline deaths in a decade.

One early evening in September 2010, a steel gas transmission line, later found to be riddled with faulty welds, erupted in a neighborhood in San Bruno, outside San Francisco. The blast killed eight people, destroyed 38 homes, and left a crater 72 feet long. Dozens were injured, some suffering third-degree burns.

The explosions and the deaths have continued this year, in Pennsylvania.

In February, an 83-year-old cast-iron gas line blew up in downtown Allentown, killing five, including a 4-month-old baby. And in January, another old cast-iron main exploded in Northeast Philadelphia, sending a 50-foot fireball into the sky and fatally injuring a young gas company worker.

Cast-iron pipelines, which turn brittle with age, have long been identified as a safety hazard, but utilities have been slow to replace them. Pennsylvania still has thousands of

miles of these lines. Philadelphia Gas Works, with more than 1,500 miles, has the highest percentage of cast iron in the nation.

Attention to detail

On a day of intermittent, spitting rain this spring, a pipeline welding crew was working under a blue tarp on the edge of a hillside in Bradford County in northeastern Pennsylvania - the epicenter of the Marcellus boom.

A deep trench had already been cut into a hillside, and the green sections of steel pipe, coated to resist corrosion, were already laid out on support frames waiting for the welders.

Parked on the highway was a square panel truck, a rolling darkroom. The owner of this line, Chesapeake Energy, was X-raying and visually inspecting each one of the pipeline welds. Another worker was using a sophisticated GPS device to record the precise location of every weld and connection.

Once the lines are done, they are electrically charged to resist rust and subjected to a hydrostatic test, pumped full of water to make sure there are no leaks. Chesapeake also is permanently marking its routes with bright-yellow pipeline signs.

The industry says that pipelines today are made of better steel and built and welded to higher standards than ever before.

"These are not yesterday's gathering systems," said Chesapeake's Spigelmyer.

In the absence of any regulations or inspections, though, it's impossible to know whether every company is following the same standards as Chesapeake. In short, Pennsylvania is depending on the companies to make sure the pipelines are built correctly.

"I've heard some companies only check 10 percent of the welds," said Jay Senozetnik of Buffalo, working as an X-ray inspector on the Chesapeake job. "The problem is, people

living next to it don't know which lines are inspected 10 percent and which are 100 percent."

"The biggest concern is that one company may be a good actor, but another company may not be," said Lynda Farrell, a pipeline-safety activist in Chester County.

Many of the people living closest to the new pipelines say they are unconcerned - particularly if they have a lease and need the pipeline to start collecting their royalty payments. They say they trust the companies to build them safely.

Joan and Bill Carlson, of Chester Springs, have a gas well on their land in Springville, in Susquehanna County. They made lease deals for three more pipelines to cross their property.

"Could it happen? Sure," Joan Carlson said when asked if she was worried about an accident. "Anything could happen. But will it? Likely not. They've been doing this for a hundred years."

Given the expense of pipelines, gas-industry executives say the last thing they want is to spend millions more to dig up a faulty line, let alone risk an accident.

"There's no shortcuts being taken just because there isn't some type of public regulation," said Ted Topakas, marketing director of Henkels & McCoy, a pipeline contractor in Blue Bell.

"You want to make sure that what you're putting in the ground is of high quality and the safest construction," he said. "You want to protect the people, you want to protect the environment, you want to protect your investment."

'Extremely troubling'

When problems are caught, it's almost always by the companies themselves, or by their own inspectors.

The problem is, the companies sometimes make mistakes.

In recent years, there has been growing evidence that quality controls can break down - particularly during times of strong demand for new lines, as there is now in Pennsylvania.

"They've got so much construction going on, companies are really getting lean," said pipeline-safety expert Richard Kuprewicz. "And if you're spread so thin, you start to cut corners, and take risks. It's not like they do it intentionally; it's the system [that] takes over."

"The way things are going, 'Trust us' isn't cutting it," Kuprewicz said.

In late 2008, after a surge in projects left the industry stretched to find qualified workers, some serious problems began cropping up in big pipeline projects.

Alarmed, PHMSA engineers started spending more time in the field actually observing work crews. In all, they looked at 35 projects. What they found were "very serious issues covering all aspects of construction," according to Alan K. Mayberry, a top PHMSA official.

"It really paints a portrait of an industry that over the last year or so has really been stretched to capacity," Mayberry said during a conference in Texas to warn the industry to be more careful.

The agency found steel that didn't meet specifications, inadequate coating on pipes, and slipshod welding techniques. The agency found the problems were exacerbated when the lines cut through hills and streams - common terrain in Pennsylvania's shale fields.

Inspections were supposed to catch the bad welds, but those procedures suffered from their own "quality control problems," PHMSA found.

Some of the bad welds weren't caught until the lines failed during hydrostatic tests. Another PHMSA official said that was "extremely troubling."

Bad welds are supposed to be caught right away, not during final testing. Did that mean, Mayberry wondered during the conference, that there were other bad welds lurking?

Construction mistakes have caused other new pipelines to fail.

In January, pipeline company workers found bubbles in a stream in a remote section of southern New York - natural gas from a pinhole leak in a high-pressure transmission line just two years old.

The 182-mile Millennium Pipeline has announced expansion plans to accommodate demand from Marcellus Shale wells in Pennsylvania and New York.

A later investigation found that a section had flunked a visual inspection and was set aside - but was installed anyway, by mistake.

Last week, the pipeline's owner said it thoroughly inspected the pipeline after doing repairs and "verified the integrity" of the line. It is operating again at full pressure, Millennium Pipeline Co. said.

As for the line near Waynesburg, Langley, the union organizer, said he happened upon it at a road crossing while he was prowling the shale fields in Pennsylvania, looking to make sure none of his workers were doing jobs for nonunion contractors.

His union, Local 798, based in Tulsa, Okla., has been aggressively documenting what it considers slipshod, rushed work by nonunion contractors, particularly in Texas and Louisiana.

"It's happening everywhere, and the sad part is there's very, very little regulation," said Danny Hendrix, Local 798's business manager. "You and I are the ones who have to live around that stuff."

He said inferior construction practices mean that pipelines that should last 70 years might last only 10 or 20.

In the case of the Consol job, Michael Yazemboski, an inspector at a Pittsburgh office of PHMSA, got the call. "He didn't look at the pipe," Langley said. "He said, 'I wasn't allowed to do that because it does not fall under any regulations I have.' "

Because the gathering line was in a rural area, it fell outside safety rules, a PHMSA spokesman confirmed. The agency declined permission for an interview with Yazemboski.

Consol took action, firing a half-dozen welders from the job and eventually dismissing the subcontractor, Eagle Pipeline Construction, based outside Dallas. An Eagle spokesman declined to comment.

Accidents in Ohio

El Paso Corp.'s Tennessee pipeline system stretches across half the country, from the Texas Gulf Coast through the Marcellus regions of northern Pennsylvania and into New England.

One morning last month, near the town of Glouster, in a remote section of hills and hamlets in southern Ohio, the line blew up when a weld failed.

It was the third such failure on that pipeline in Ohio this year.

Two miles away, George Pallo, mayor and senior firefighter in the town of Jacksonville, spotted it: a 1,000-foot tower of flame. As he got closer, he said, he had to roll up the fire truck window so he could hear the radio.

"I still hear that roar," he said.

Three houses and two barns caught fire, not from the explosion but from the radiant heat. One woman waited almost too long to get out, fleeing only when her home's vinyl siding started to melt. The backs of her legs got burned as she ran away.

In February, a weld split and touched off another fireball 150 miles away; no one was hurt. Another weld failure created a big gas leak in March, but this time there was no fire.

For pipeline people and regulators, this is worrisome: The welds tying the sections together are supposed to be stronger than the steel itself. Three failures in one year means something has gone very wrong.

"You can bet we are paying a lot of attention to that pipeline," said Quarterman, the top pipeline regulatory official.

El Paso says it's not known yet whether the third failure is, like the first two, related to defective welds; the company says shifting soil may have cracked the pipe.

In a statement, El Paso said it is committed to safety, with an inspection program that "goes well beyond what is required by federal regulations."

This month, another explosion, in rural western Alabama, blew up another gas line that extends into Pennsylvania, without injuring anyone.

Integrity management

The national pipeline system's main line of defense against leaks and explosions of this type is "integrity management," a set of rules requiring companies to inspect older pipelines. Before the program went into effect in 2004, once pipelines were in the ground, companies never had to check them again.

Since then, companies have found, and repaired, more than 3,200 problems in big interstate transmission lines.

But the program can confer a false promise of safety.

The standards cover only 7 percent of lines, in "high-consequence areas" - a euphemism for densely populated neighborhoods, or malls or schools.

And pipeline inspections are usually audits of paper records, but these utility records are sometimes missing or wrong.

In the case of San Bruno, the utility's records didn't show that the pipeline was cobbled together out of short sections of leftover pipe, and had poor-quality steel and dangerous welds, according to a report by the National Transportation Safety Board, which investigates such major accidents.

Two audits by the state and PHMSA didn't find these issues, "despite the fact that many of them should have been easy to detect."

The Safety Board concluded that PHMSA's enforcement program has been "weak" and ineffective in supervising state regulators - the same criticism made by federal auditors 32 years ago.

"For government to do its job - safeguard the public - it cannot trust alone," NTSB Chairman Deborah Hersman said. "And as we saw in San Bruno, when the approach to safety is lax, the consequences can be deadly."

Quarterman said the agency was already attacking some of the issues raised by the NTSB, including better oversight of state safety programs and utilities.

"I think the agency is very strong and very well-respected by the companies we regulate," Quarterman said in a recent interview. "There's always room for improvement."

Declining inspections in Pa.

As companies have ramped up their pace of pipeline construction in Pennsylvania, the number of government safety inspections has actually gone down.

"They are the responsibility of PHMSA, but PHMSA doesn't have the resources," said Metro, Pennsylvania's top pipeline-safety regulator. "They do some inspections, but not

a lot."

Overall, PHMSA says it has devoted a modest amount of time to inspections in the state in recent years - the equivalent, in 2009, of one inspector working half a year. Last year, inspector workdays fell by half.

In addition, the agency said, it spent 216 workdays reviewing records of companies active in Pennsylvania and other states. It couldn't say how much of that time was spent on Pennsylvania pipelines.

"No, I'm not satisfied," said Sen. Bob Casey (D., Pa.), who pushed PHMSA officials for details of their staffing in Pennsylvania last year, even before the explosions in Allentown and Philadelphia.

"I still have real concerns about staff resources and training and overall safety."

Casey said the oversight gaps were even more worrisome given the rapid expansion of the Marcellus Shale pipeline network. "We've got an even bigger challenge than we had two or three years ago," he said.

Elsewhere, state regulators pick up some of the slack, taking responsibility for most inspections via agreements to enforce federal pipeline rules. But Pennsylvania has yet to take on that role.

The reason, Metro believes, goes back to the industry's decades-old muscle in the Statehouse.

"The gas lobby, for 100 years now, has been very, very strong," he said. "It appears they were able to convince the legislature they were able to self-police."

The PUC has eight safety inspectors, working under Metro. But they typically handle only the 46,000 miles of lines owned by utility companies. The lines that ruptured in Allentown and Philadelphia, for example, were under PUC oversight.

Critics worry that Pennsylvania's inattention now could lead to disaster later.

"There's nothing but a bunch of bad things that are going to happen in the next 10 or 15 years," said Don Deaver, a former pipeline engineer from Texas who now works as a consultant.

"You've had so much of it happening so quickly up there that the regulatory oversight just isn't there to keep up."

In legislation pending in Harrisburg, the PUC would get the authority to hire an additional 13 inspectors; the money to pay them would come from fees paid by pipeline operators.

But there is just one training school for pipeline inspectors in the country, in Oklahoma City. Metro says he's hoping to get his people rushed through. But it could be a year before the inspectors could get out in the field.

As for One Call, the program that's supposed to prevent digging accidents, key state legislators and the Marcellus Shale Coalition support the idea of including the shale pipelines, even in rural areas. But the measure is opposed by a second trade group representing smaller drilling companies.

Pennsylvania's oversight gap has left regulators in handcuffs.

Even when the PUC hears about potential safety issues involving shale gas pipelines, Metro said, he has no authority to investigate.

Would-be whistle-blowers have called the agency, but Metro says he sent the calls along to PHMSA and didn't keep records of the complaints.

"Since it's not in our jurisdiction, we don't keep track of that stuff," he said.

Contact staff writer Joseph Tanfani at 215-854-2684 or jtanfani@phillynews.com.

AT PHILLY.COM

To explore the issues in depth, go to Deep Drill at www.philly.com/deepdrill, The Inquirer's new Marcellus Shale section on the Web.

There, you can read the series with photo galleries, videos, and graphics - and an archive of other Inquirer stories on the shale boom.

You can also:

- * Review an interactive map showing the dramatic growth of pipelines in the epicenter of drilling, Bradford County, in northern Pennsylvania.

- * Check out an interactive map of every well permit issued since 2005 and every well drilled this year.

- * Watch a video presentation on how pipelines are built and interviews with a pipeline company executive and a leading activist.

- * View an interactive timeline of important Marcellus events.

- * To learn more, you can also follow links to industry, government, and activist information, including model pipeline ordinances.

The Inquirer team

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Battle Lines: A Four-Part Series

Sunday

Powerful pipes, weak oversight. Pennsylvania, a center of the shale gas revolution, is now facing a second wave of construction:

the build-out of pipelines to get the gas to market. Yet the pipelines often go unregulated.

Monday

Same pipe, different rules. Gathering lines that link wellheads to interstate lines are being built in large numbers in Pennsylvania to carry shale gas. They are large and move gas at high pressure - but don't receive the same regulation as similar interstate pipelines.

Tuesday

"Us vs. Them" in Pa. Gasland. Community activists have begun to take on pipeline companies, but the industry is fighting back - and winning.

Sunday, Dec. 18

Aging pipes, deadly hazards. Philadelphia and other cities have an aging network of old cast-iron pipes to get gas to homes. These pipes blew up this year with fatal consequences in Philadelphia and Allentown.

COMING MONDAY

For rural Pennsylvania, no pipeline rules apply. Part II.

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CITATION (AGLC STYLE)

Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS, 'Powerful Pipes, Weak Oversight Pa.'s shale boom has spurred miles of pipeline construction, often with no safety rules.', *Philadelphia Inquirer, The* (online), 11 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13B9B6485CC16788>>



Similar Pipes, Different Rules - U.S. safety rules govern many pipelines, but none cover those going from wells in rural areas.

December 12, 2011 | Philadelphia Inquirer, The (PA)

Author: Craig R. McCoy and Joseph Tanfani INQUIRER STAFF WRITERS | Section: NATIONAL | 3981 Words

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When the owners of the Tennessee natural gas pipeline decided to expand the pipe in the Marcellus Shale region of Pennsylvania's northern tier, the federal safety rules they had to follow filled a book.

For this interstate transmission line running north from the Gulf Coast, the regulations covered everything from the strength of the steel to the welding methods to how deep the pipeline must be buried.

Also in Bradford County, another company - Chesapeake Energy - is building a pipeline the same size as the Tennessee line, 24 inches in diameter. And it's designed to operate at even higher pressure - up to 1,440 pounds per square inch.

But for this line, in this rural section of shale country, there are no safety rules at all.

Because the second line is classified as a "gathering" pipeline, carrying gas from well fields to transmission lines, safety rules are less stringent. And because that line is in a rural area, it's totally unregulated.

Bill Wilson lives in neighboring Wyoming County, another crossroads for the new generation of powerful Marcellus gathering lines. He made a study of pipeline rules in his role as president of a group of landowners who negotiated gas and pipeline leases.

He says the calculation that balances safety regulations against population numbers treats rural residents as "collateral damage."

"It's all about money. You know that as well as I do," he said.

This loophole in the law, a legacy of the industry's influence in Washington, has been evident for decades, but the mighty Marcellus gas strike in Pennsylvania has changed the rules.

The new wells, using the technique of hydraulic fracturing, generate tremendous torrents of gas that need big pipes, running at pressures far greater than traditional gathering lines.

That has federal regulators and some members of Congress once again pushing to extend safety rules to the 200,000 miles of gathering lines in rural America - with gas and pipeline companies pitted against them.

"I believe when a pipeline is put in the ground, there has to be some regulation," said Transportation Secretary Ray LaHood, whose agency oversees pipelines through the Pipeline and Hazardous Materials Safety Administration, PHMSA.

"Someone has to have some enforcement over them, some oversight on construction and safety - but also transparency, so people in these communities know when a pipeline is going through their front yard," he said.

This high-stakes battle - now playing out in Harrisburg, as well - has engaged politicians, environmentalists, and legions of lobbyists, arguing over arcane details in law offices, committee rooms, and before the state Public Utility Commission.

As Pennsylvania takes its place among the major gas-producing states, it is perhaps appropriate that a key figure in these regulatory debates is a congressman from Pennsylvania - Bill Shuster.

When Republicans gained control of the House in the 2010 elections, Shuster became chairman of a subcommittee with oversight of pipelines. He's hesitant to add rules that might slow natural gas development - including ones on gathering pipelines.

"If there's a glaring problem out there, we ought to take a look at it, but I haven't heard

there's a problem," he said. "If it's not broke, why fix it?"

Gas and pipeline companies say that the oversight gap has no effect on public safety, and that their new gathering lines in the Marcellus are "state of the art."

Chesapeake Energy says the 24-inch line it is building in Bradford County, like its other pipelines, meets or exceeds all safety regulations.

"I would be surprised to find anybody building gathering lines out there that are not up to the highest integrity standards," said David J. Spigelmyer, vice president of Chesapeake and chairman of the Marcellus Shale Coalition, the leading industry trade group.

Though the industry insists accidents on gathering lines are rare, the stakes are high when the pipes do rupture. In recent years, they have blown up in Texas and Oklahoma, killing workers and burning one woman in her home.

"It doesn't matter what you call this thing," said Richard Kuprewicz, an engineer and consultant for the Pipeline Safety Trust. "You've got high diameter and high pressure - guess what? There needs to be more regulation."

But industry representatives, here and in Washington, are once again pushing back. Bills pending in Harrisburg say the state rules can't be tougher than the federal ones.

"It simply increases the cost of doing business in the area without really accomplishing much," said W. Jonathan Airey, a lawyer for the industry. He and others say the money could be better spent on protecting the public in more populated areas.

He was doubtful the move would gather much steam, especially given the long history of wrangling over the issue. "I don't know how enthusiastic DOT [the Department of Transportation] is to reopen something that took 30 or 35 years" to settle, he said.

Fewer people, less protection

As pipeline rules have become stricter, they have required companies to focus their greatest attention on what regulators officially term "high-consequence areas" - places where the injury or death toll would be massive.

That's of little comfort to Emily Krafjack, who lives in Mehoopany, in rural Wyoming County.

"We're of no consequence, that's what I always say," said Krafjack, who has become one of Pennsylvania's most persistent advocates for stronger pipeline regulations.

Much of the pipeline mileage in her county is designated "Class 1," the least-populated and least-regulated of four areas under PHMSA regulations. That means there are 10 or fewer homes along a one-mile section of pipeline within a quarter-mile right-of-way. No federal or state safety regulations apply to gathering lines in Class 1.

Pipeline companies building gathering lines in Wyoming County say they are following stricter standards anyway, using stronger steel and painstaking inspection procedures.

Krafjack said that's a welcome step - but she says it should not be voluntary. She says the Class 1 loophole must be closed.

"While these run through the fields or the hills, eventually they go by people's homes," she said.

"All of these lines are being installed in a very short window of time. They can use shallower depth, they can use thinner pipe. They can do no inspections."

Though firms pledge to build to the best standards, she says, "We have no way of knowing."

For many other residents, though, these gathering lines represent more promise than peril. Many landowners now have wells drilled and "fracked" on their property - but won't start getting royalty checks until the pipes are hooked up and the gas starts flowing.

"We're pretty sure the black river runs right through here," said Phil Beardslee, 65, a truck driver from Springville, in Susquehanna County, saying the wells in his area had been big producers.

"And I hope so," he said. "We hope. It's my retirement."

He says he is unconcerned about pollution from the well pad near his home or safety problems from the pipelines. As he spoke, a crew from Williams was laying a pipe across the street from his house.

"They come in, do a good job, cover them up, and they're gone," Beardslee said. "By the time they get it all graded off, you don't know it's even here."

Fewer rules part of history

Lower safety standards for rural areas have been enshrined in federal rules since the dawn of federal pipeline regulation.

In 1965, a transmission pipeline fractured outside the small town of Natchitoches, La. The explosion killed 17 and prompted President Lyndon B. Johnson to call for the first time for federal pipeline regulation. The same pattern has been repeated ever since - explosion, deaths, reform.

With a push from Johnson, Congress enacted its first oversight laws in 1968.

But from the start, industry lobbyists made sure the rules explicitly exempted a huge segment of the pipeline infrastructure - the ones running from wells in more remote areas.

Soon, it became apparent that the exemption had created a massive regulatory gap.

"Although several serious accidents have occurred in recent years involving . . . gas gathering lines in rural areas, safety regulations governing these pipelines have not

been issued," federal auditors warned in 1978.

Prodded by Congress, the Transportation Department tried to draft new rules in 1974 and 1986 and again in 1991. Each time, the industry fought back..

Companies questioned whether the lines were really that dangerous, and whether the extra expense of regulations would discourage natural gas exploration.

Each time, the agency ended up retreating.

One of the biggest obstacles has been an inability to solve the most basic question of all: When is a pipeline a gathering line?

For pipeline companies, names mean a lot: They pay user fees to the government, \$70 million this year, based in part on how their pipes are defined. More important, tougher regulations mean more compliance costs.

Generally, gathering lines run from well fields and feed into bigger "transmission lines" that cross the country, and deliver gas to the utilities that pump it into homes and businesses through "distribution lines."

For years, the official definition was circular - a gathering line was one that, in the supply chain, came before a transmission line. A transmission line was one that came after a gathering line.

"We all used to make jokes that we'd all retire before we figure out what that is," said Johnny Dreyer, a spokesman for the Gas Producers Association, the major trade group for gathering pipeline firms.

In 2006, PHMSA essentially gave up: It simply instructed companies to use a guide produced by the American Petroleum Institute.

"It's a joke," said Bill Kiger, of Pennsylvania One Call, the 811 number that construction crews can call before they dig to avoid striking a buried gas line.

"The problem with all that kind of stuff is the definitions are produced by the user group," he said. "If you were a user, would you make the definition tough? It's like setting your own parking fee."

But that didn't settle anything. In August, federal regulators admitted the guide was full of "conflicting and ambiguous language," with 20 bewildering diagrams that can result in the same pipeline system being classified in different ways.

"The regulations, as I look at them, begin starting to look like the tax code," Jeffrey D. Wiese, associate PHMSA administrator for pipeline safety, said at an agency meeting.

Some companies have gamed the system, regulators say, exploiting the confusion so their lines escape regulation - even though they may run as far as 76 miles from the gas well.

In fighting new rules, the industry has leaned on numbers. There are fewer accidents on gathering lines, the argument goes, so new rules would be overkill.

But critics say that's something of a Catch-22. Since the lines aren't regulated, there's no requirement that companies report incidents or accidents. Reliable statistics are hard to come by.

"It's hard to move forward with a rulemaking based on data when there's no data and no requirement for anybody to give us data," one PHMSA official said in an interview, speaking on condition that he not be named.

In fact, the only real attempt to study accidents on gathering lines was done by an industry trade group in 2004. The Gas Processors Association surveyed 40 operators and found 58 incidents during the previous five years, including one death and three injuries. The group said this showed the lines posed less threat than transmission lines.

The study was cited by PHMSA when, in 2006, it decided against tougher rules.

At the request of Congress, the Government Accountability Office is now trying to collect statistics on gathering-line accidents; auditors recently toured Pennsylvania.

In the effort to extend regulation, safety advocates and regulators have had to contend with opposition not only in the industry, but from elsewhere in the government.

In 2004, Energy Department officials cited a policy of President George W. Bush to protect domestic energy production and echoed industry lobbyists in warning that regulation would harm "marginal" operators.

The move to increase safety could force companies to shut down wells or discourage the drilling, wrote James Slutz, who was then deputy assistant secretary for natural gas and petroleum technology.

Lobbyists joined in, saying new regulations would have a "devastating impact" on gas exploration, and "drag producers into a regulatory scheme . . . with little or no benefit."

These worries found a sympathetic audience among regulators.

"We are very concerned that we not bring additional costs," Stacey L. Gerard, the chief safety officer at the time, said during a 2006 meeting with a PHMSA technical advisory panel heavy with industry representatives. "We are very sensitive to the limited margins of profit."

In the end, the agency in 2006 dropped its bid to push regulation into Class 1 rural areas, saying its proposal "does not appear to be a reasonable use of available resources." The agency tightened some rules on gathering lines but relaxed others.

The net result: No change in miles regulated.

Big explosion, no investigation

Near the town of Alex, in the oil-field plains southwest of Oklahoma City, a noise that sounded like a bomb shook people awake in the middle of the night three years ago.

The explosion, from a 20-inch gas gathering line, rattled their walls and sent up a 50-foot ball of flame that turned 3 a.m. as bright as afternoon. Three homes were destroyed, and a woman, Mildred Hull, suffered second- and third-degree burns.

Grady County Fire Chief Perry Wenzel said the blaze was ferocious, so intense that it melted the back of one of his fire trucks.

"It totally destroyed three homes that were there," Wenzel said in a recent interview. "It burned them to the ground."

The line was 32 years old. The company that owned it, Enogex Inc., said at the time an inspection the year before had turned up no problems. No one hit the line during an excavation.

What caused the pipe to blow up remains a mystery. The area, a center of oil and gas production since the 1920s, was rural, meaning pipes there fall outside any regulations. Oklahoma did not investigate.

"Our pipeline safety division didn't have jurisdiction over it," said Matt Skinner, a spokesman for the Oklahoma Corporation Commission.

"In terms of this agency, there were no reports," Skinner said.

Enogex conducted its own review but won't discuss the results.

"They just don't want to reveal that information," said Enogex spokeswoman Sandra Longcrier. She did say that since the accident, the company has begun to use internal devices to inspect larger gathering lines for corrosion: "That was a good lesson learned."

Two years later, another Enogex gathering line exploded in another town in the same county, injuring three workers doing maintenance on the line. One suffered a broken leg, burst eardrums, and second-degree burns over half his body.

Like the first line, this one was unregulated, and state officials did not investigate the accident. Longcrier said the company would not reveal that cause, either.

"More and more, these lines are not in a rural area - they get built up around the line after it's in," she said, stressing that the company's workers have a personal stake in safety: "All our men live and work in those areas where they have lines."

After the Alex accident, the Oklahoma Legislature took up a bill that would have given the state authority to regulate these rural gathering lines. It would have removed a legal ban on the state imposing any pipeline rules more stringent than federal ones.

But it drew fire from pipeline firms and died.

"The industry felt like it was a little too burdensome," said Republican State Sen. Brian Bingman, the sponsor.

With its long history of oil and gas production, Grady County is now a "spiderweb of pipelines," Wenzel, the fire chief, said.

"They should be regulated," he said. "Mainly for the safety of the people. These things are running next to towns and everything. They're everywhere.

"I wish there was a lot more support on this," he said. "But when it comes to the pipeline companies, they take that over."

A changing landscape

In Pennsylvania, like other oil and gas states, shallow gas wells - and pipelines - have been around for decades, dating to the first pioneering wave of oil and gas development that began 150 years ago.

About 350,000 conventional gas wells have been drilled in Western Pennsylvania, and 70,000 are still producing. Those types of wells generally require much smaller pipelines, six or eight inches in diameter. Pressures are lower.

The new natural gas rush has changed everything.

In the Marcellus, drillers pump water at high pressure to blast the gas loose from shale, a process known as hydraulic fracturing, and send as many as 16 wells underground horizontally from the same well pad.

Gas bursts from these wells at pressures as high as or higher than is typical for even the big interstate lines. Within a year or two, the pressure drops significantly.

A considerable amount of Marcellus gas arrives ready-made for the big interstate lines. Some companies operating in Pennsylvania, including Williams, typically use 24-inch for their gathering lines in the state. Some lines are even larger.

As a result, "the framework for regulating gas gathering lines may no longer be appropriate," PHMSA announced this year. In August, the agency once again opened a study on whether to close the rural regulation loophole.

"We're worried, too. We would like to have jurisdiction over those lines," said Cynthia L. Quarterman, PHMSA administrator.

For starters, officials proposed dumping the convoluted American Petroleum Institute guidebook and drafting a new definition.

More sweepingly, the agency asked for comment on whether it should impose "new, risk-based requirements for large-diameter, high-pressure gas gathering lines in rural locations."

"It's a little tough to defend to say that we don't regulate Class 1 locations," PHMSA official DeWitt Burdeaux told an industry conference in March. "That those folks that are in a little more rural areas are not as important as those in the higher-density population areas."

A pipeline-safety bill now close to passage in Washington once again brings up the issue

of ending the exemption for rural gathering lines. Just as before, the bill calls only for yet another study - due in two years.

Industry representatives are still skeptical. Jeff Applekamp, director of government affairs for the Gas Producers Association, said he wasn't aware of the higher-pressure gathering lines in shale regions.

As for the possibility of new rules, he said: "All I can say is it would take more investigation" regarding the need to regulate in "these far-out remote areas."

A push for reform

In Pennsylvania, regulators were caught unprepared for the massive rollout of pipeline construction. Everywhere but Alaska and Pennsylvania, the perennially short-staffed PHMSA relies on state agencies to inspect gathering lines in gas-well fields.

Even before the Marcellus pipeline construction began in earnest, PHMSA had been imploring the Pennsylvania Public Utility Commission to take on that role, said Paul Metro, who oversees gas regulation for the PUC.

But the agency was slow to respond. Former commissioners said it just wasn't on their radar.

Starting in 2010, the PUC began holding hearings on what regulation should look like. The commission, industry, and legislators hashed out a rough consensus: Pennsylvania, like other states, would begin to enforce the federal rules.

As in Oklahoma and other states, legislators included a provision that would prohibit Pennsylvania regulators from adopting any rules more stringent than federal ones. The upshot: no rules for rural gathering lines.

"The industry wanted some assurances" that the PUC would not try to overstep federal law, said Fran Cleaver, staff director of the state Senate Consumer Protection Committee.

"I think this is what we could negotiate to get a consensus right now," she said. "This was as much as we could do."

The Pennsylvania House and Senate each passed versions of a pipeline regulation bill earlier this year. The two versions are similar, and a reconciled version is expected to become law soon.

The legislation will likely include a provision for a state registry for all gathering lines - but still no safety rules in rural areas.

That hasn't gone over well with landowners, activists, and some government officials in the shale fields.

"The safety of a selected class of citizens will be deemed expendable," Lynn Senick, a resident of Montrose in Susquehanna County, a center of shale drilling, testified before the PUC.

Those protests have apparently helped sway some players in Harrisburg.

Over the summer, Gov. Corbett's Marcellus Shale advisory commission voted, 27-0, to recommend extending rules to rural areas.

"Those citizens in those areas are saying, 'We want regulation,' " Robert Powelson, the PUC chairman and commission member, said in an interview.

"We heard them loud and clear."

State Sen. Lisa J. Baker, sponsor of the Senate version of the pipeline-regulation bill, said she was preparing another measure that would have the PUC oversee all lines, rural or not.

Her Luzerne County district is a hotbed of protest against pipelines.

"These are high-pressure lines carrying gas near their homes," Baker said of her constituents, "and they think they should have the same protections as people who live in more urban areas."

Even so, any move to extend regulation may face opposition from the industry and its supporters in Harrisburg.

State Rep. Matt Baker, a Republican from Tioga County who is a leader on pipeline issues in his chamber, said he remained opposed to having the state take the lead and regulate Class 1. Baker, no relation to Lisa Baker, represents a district that includes parts of Bradford and Tioga Counties, areas laced with well pads and pipelines.

"The reason the feds don't do it is that with the cost-benefit analysis, there just isn't a substantiated need to do so," he said.

The Marcellus Shale Coalition agrees. The influential trade group says the question of regulation in rural America should be settled at the federal level, not by every state passing its own rules.

The coalition chairman, Spigelmyer, says all Pennsylvania gas pipelines, rural or not, should be listed in a registry, but he stopped short of endorsing new regulation.

"We're trying to do what's right in the field," he said. "Let's face it - the Marcellus is being developed with the highest integrity standards."

Contact staff writer Craig R. McCoy at 215-854-4821 or cmccoy@phillynews.com.

Battle Lines: A Four-Part Series

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AT PHILLY.COM

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COMING TUESDAY

As activists take on pipeline companies, the industry is fighting back.

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CITATION (AGLC STYLE)

Craig R. McCoy and Joseph Tanfani INQUIRER STAFF WRITERS, 'Similar Pipes, Different Rules U.S. safety rules govern many pipelines, but none cover those going from wells in rural areas.', *Philadelphia Inquirer, The* (online), 12 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13BA081EC7C9B6A0>>



'Us vs. Them' in Pa. Gaslands - Pa. looks set to strip cities and towns of the power to restrict wells and pipelines.

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Author: Craig R. McCoy and Joseph Tanfani INQUIRER STAFF WRITERS | Section: LOCAL | 3869 Words

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The solicitor's voice shook as he tried to explain to a hostile crowd that natural gas pipelines are perfectly legal.

"If we have to have this," Tom Brennan said, "let's at least try to control it and have it on our own terms."

With that, to scattered applause and more groans, the township supervisors here decided to end a war over natural gas pipes that bitterly divided this town, a gateway to the rich Marcellus Shale region.

The compromise was a new, custom-tailored ordinance that banned high-pressure pipelines in residential neighborhoods, but permitted them in areas zoned for farms or factories.

Now, it appears the township's painstaking effort to craft a compromise between warring factions added up to nothing.

In what is shaping up as a key victory for the shale-gas industry, Gov. Corbett and the legislature appear close to stripping municipalities of the power to impose tough local restrictions on wells and pipelines. Under a pending measure, wells and pipelines would be permitted in every zoning district - even residential ones - statewide.

And the industry isn't stopping there.

Two pipeline companies are seeking the clout of eminent domain. While the Pennsylvania Public Utility Commission has yet to rule, it signaled this year that it was

leaning toward giving firms condemnation power to gain rights-of-way for their pipelines.

Dallas Township - an affluent suburb outside Wilkes-Barre in the Endless Mountains - is just one battlefield in a war that has flared in more and more Pennsylvania towns. The increasingly contentious conflict centers on proliferation of the new, large-diameter, high-pressure pipelines that carry Marcellus Shale gas to market.

In part, the war over pipelines is a proxy struggle over "fracking" itself.

As one Dallas Township opponent wrote in a Facebook message: "It is all one package. You cannot have a well without a pipeline, compressor and metering station, or vice versa. Stop just one, and stop all."

Political hardball

In its pursuit of its high-stakes agenda, the industry has been more than willing to play hardball, unleashing its lawyers and lobbyists.

Perhaps the most aggressive move came here in Dallas Township, in Luzerne County, when a Texas pipeline firm, Chief Gathering L.L.C., filed a lawsuit this fall threatening three of its opponents with potentially millions of dollars in damages. The suit said its opposition had subjected the firm to "public hatred, contempt, and ridicule in the community."

As evidence, Chief attached 22 pages of critical postings on Facebook.

In another instance, Chesapeake Energy - the biggest driller in Pennsylvania - sent off a mass letter this summer to leaseholders in five counties, asking them to write Congress and complain about the Army Corps of Engineers, which must approve many pipelines that cross streams.

The "Dear Mineral Owner" letter warned that a corps review of gas pipeline projects was unduly holding up production - and delaying "royalty payments to you."

David J. Spigelmyer, Chesapeake's vice president and in-house lobbyist and the letter's author, said in an interview that the firm simply wanted its leaseholders to know who was to blame; the corps denies creating serious delays.

"At the time we had over 100 wells waiting on pipelines," said Spigelmyer, also the new chairman of the Marcellus Shale Coalition, the leading industry trade group.

"I believe we had an obligation to communicate with those leaseholders who had royalties withheld until we could get pipelines built to those locations."

In Westmoreland County, near Pittsburgh, Range Resources successfully filed suit to strike down the drilling and pipelines ordinance in Salem Township.

The court case, said Township Solicitor Gary Falatovich, "did a really good job of dismantling every modest control that the township was trying to impose. What can I tell you?"

Then there was the epic battle waged for more than a year over the Marc 1 - for Marcellus - a 39-mile, \$257 million project that would open a new swath of Bradford, Lycoming, and Sullivan Counties to gas development.

The Marc 1 is not a gathering line running directly from wellheads, like most of the new pipeline construction in the state. It is a giant "hub" line of 30-inch-diameter steel pipe connecting two major interstate lines. Opponents fear many new clusters of wells will be drilled along the line and tie into it.

"If that Marc 1 pipeline goes through, it will be the equivalent of a superhighway for development," said Anne Harris Katz, a research biologist and activist.

Because it would link interstate lines, the Federal Energy Regulatory Commission (FERC) needed to grant approval before construction could start. And opponents of gas development thus got a rare chance to register loud disapproval in a public forum.

They flooded federal officials with thousands of letters opposing the line, and raising the specter of forest destruction and stream pollution.

In an unusual move, the U.S. Environmental Protection Agency aligned itself with skeptics, saying the line should not go forward without an in-depth study to consider the environmental impact of the drilling industry the new line would enable.

Last month, the industry prevailed after a bruising battle. FERC brushed aside EPA's concerns and granted the pipeline a green light.

Construction is to begin soon. Within days of approval, the line's builder filed scores of condemnation notices for the pipeline right-of-way.

Too late for harmony

Inside the stuffy, standing-room-only Dallas Township supervisors meeting in October, six children crouched in front of the table where the local officials sat, holding brightly colored placards. "Save the Earth," read one.

One woman held a sign showing an explosion with the words, "Sympathy and candles won't be enough."

Brennan, the solicitor, appealed for harmony.

"I'm trying to avoid this becoming 'us vs. them,' " he said.

It was already way too late for that.

Dallas Township found itself at the center of the pipeline debate because it is home to a stretch of a key interstate gas transmission line.

That's the Transcontinental, a 10,500-mile pipeline system that runs north from Texas. It is owned by Williams, of Tulsa, Okla., one of the nation's largest gas producers.

Williams and Chief, which is based in Dallas, Texas, have each stirred controversy by launching multimillion-dollar projects to lay new gathering pipelines to connect with the Transcontinental.

The new Williams line snakes 33 miles through three counties. It begins at drill sites in Susquehanna County, travels south through Wyoming County, and ends in Dallas Township.

The line, 24 inches wide, will operate at high pressure, up to 1,440 pounds per square inch. Every day, it will transport enough gas to heat roughly 6,000 homes for a year.

Chief's \$150 million pipeline, also 24 inches in diameter and high pressure, is a few miles shorter. It will run from Wyoming County into Dallas Township.

Even so, after Chief filed plans to equip the new line with a compressor station not far from the township's massive 2,700-student school complex - a high school, middle school, and two elementary schools - residents turned out by the scores for a heated municipal meeting.

"The only thing missing from the hearing were pitchforks and torches," said Norm Tomchak, 69, a retired railroad engineer and a leader in the area's Gas Drilling Awareness Coalition, which has papered the township with "pipelines no" signs.

Though the Transcontinental line has operated without incident in Dallas Township since it was buried in 1946 - running by the township building, a nursing home, and Misericordia University - residents now are studying up on pipelines and asking skeptical questions about them.

"Five years ago, who knew about gas lines, who cared about gas pipelines? Who cared about gas drilling here in the Northeast? Nobody," Tomchak said.

That has changed.

Critics in Dallas Township took note when a section of the Transcontinental line

suddenly ruptured and exploded in Appomattox, Va., in 2008, injuring five people and destroying two homes.

Eight days ago, the same pipeline failed in Alabama. No one was hurt, but the explosion shot flames skyward 100 feet for more than an hour and sent a 47-foot-long piece of buried pipe flying 200 feet.

Now, the attitude is, "We don't want you. We don't want your money. We don't want your gas," Tomchak said.

But, of course, some residents do want the money. Though there are no wells in the township, about 50 property owners have signed leases to permit pipelines on their ground.

In Northeastern Pennsylvania, experts say the payments vary widely for pipeline right-of-way leases. At one point, Williams was offering Dallas residents \$10,000 for a 1,000-foot stretch of right-of-way.

Pipeline leases aside, many residents see the natural gas boom in general as an economic plus for the entire Marcellus Shale region, providing gas royalties, jobs, taxes, and fresh money spent in restaurants, shops, hotels, and other businesses.

Patrick Dougherty, a Dallas Township resident who signed a right-of-way lease with Chief, said he regretted the discord in his community. That said, Dougherty said he thought neighbors' fears over safety were misplaced.

"Could you have an accident? Could it blow up? Yeah," he said. "There's always risk. But it just goes with having a modern society."

As for environmental damage, Dougherty said the pipeline's pathway would fade back into the landscape once the digging was over.

"For six months, it might look like hell," he said. "After that, nobody will know they're there."

Pipe firm sues critics

As tempers flared, Chief this year hit hard at three Dallas Township families that had been among its most outspoken foes.

The firm sued them for "tortious interference" two days after the three families, who live in the town's wealthiest enclave, Goodleigh Estates, sued a fourth neighbor who had signed a pipeline right-of-way lease with Chief.

The families had argued that their neighbor had violated a residential covenant that banned commercial activity.

In its counterstrike, Chief said the three families had leveled "defamatory and malicious" statements against it on Facebook and in the local newspaper. Among other claims, the suit alleged that defendant Jeffrey Dickson had made a "false" statement when he told a local reporter that the pipeline would mean the felling of trees and ruin the area's "natural beauty."

In one Facebook posting cited by Chief, Dickson wrote: "I think the Gas Companies wished that they bypassed Dallas and ran their lines somewhere else. It's not too late for them to change their plans. Keep up the pressure until they explode!"

And in another, Dickson said: "We need to post a list of people that signed pipeline leases and sold out to the gas companies so they could build their stations! Everyone in the area needs to know which of their neighbors are only thinking of themselves and the \$\$'s."

In an interview with The Inquirer in October, Scott Watkins, a dentist sued by Chief along with his father, also a dentist, called it a case of "David vs. Goliath."

"I think they're obviously trying to penalize us for exercising our constitutional right to express ourselves," he said.

Late last month, Chief reached a deal with the Dicksons and the two Watkins families. Lawsuits have been dropped - and the pipeline project is going forward.

A spokeswoman for Chief said the firm made no payment to the families but agreed to change the pipeline route to spare trees.

Once so vocal, the three families are now silent. Their Facebook postings have ended.

Deborah Goldberg, managing attorney for the Northeast office of Earthjustice, a nonprofit law firm critical of the pipeline industry, denounced Chief's lawsuit.

"It's bullying," she said. "It's classic gas industry behavior, where they just throw their weight around and terrorize people to get them to back off."

A Chief spokeswoman, Kristi Gittins, disputed that, saying the suit was not about "taking away their right of speech," but the firm's need to respond to a threat to block the pipeline.

"Quite simply, it was a business decision," she said of the suit. "We have hundreds of wells, not only ours but those of other companies, waiting on the pipeline."

Refused to sign

The new Williams line has not escaped controversy, either.

Township residents Arlene and David Grudkowski and several neighbors refused to sign up when Williams offered to pay them to lay pipe across their properties. Williams ended up striking a deal with an absentee landowner who owned land adjoining theirs.

As a result, crews are now at work cutting down trees and digging a trench that wraps around the Grudkowskis' property, 100 feet or so from their house.

"We said no, and they went behind us," Arlene Grudkowski said. As she spoke to a reporter, a truck pulled up carrying massive sections of pipe.

"We're not happy about it," she said. "We're concerned that if there is any type of explosion, we're wiped, we're done."

"It's so close. It's just unbelievable for us. To stare at this all day, it makes you physically sick."

"It's not only an issue of safety," said Grudkowski's husband, David. "It's potentially changing the character of where we live. People are afraid that if they don't make a stand here, there's no end in sight."

At one point, the work in Dallas Township drew a violation notice from state environmental inspectors, for causing erosion and using an unauthorized access route.

Helen Humphreys, a spokeswoman for Williams, said its crews has fixed all the issues within 24 hours.

In interviews, officials with both Chief and Williams defended the industry's safety record.

Gittins, of Chief, and Mike Dickinson, of Williams, said pipelines were repeatedly and rigorously checked with visual inspections, X-rays of every weld, and scans with mechanical devices.

Both said their companies go beyond minimum federal safety standards when they install lines.

As far as the landscape, the industry says it strives to limit any impact during the digging and after.

At most, Dickinson said, lines create a "thin green corridor that would cut through the countryside that we can do our work on and maintain the pipe on, no different than maybe a corridor that a high-line wire runs through."

"We might say even less invasive than that because there's nothing visual to see except for grass on those corridors."

Firms said rules don't apply

While neighbors quarreled over an ordinance to limit prospective new lines, township zoning officials struggled to bargain with Chief and Williams over projects already in the works - a difficult task, given that both firms suggested that zoning rules did not apply to them.

"Natural gas pipelines are not subject to zoning restrictions or approval proceedings," Chief wrote the township in June.

In the end, a deal was struck this summer. The firms got the right to lay their pipelines in the township, but dropped plans for compressors, odorizers, and communications towers.

Aside from metering stations, they said they would keep future facilities at least 1 3/4 miles from the township school campus. They also did not pursue challenges to the township's zoning.

As the township's zoning board took up Chief's case for a metering station last week, it grappled with a headache afflicting many shale communities - the increasingly common linkages between officials and the shale industry.

Zoning board member Conrad Higgins has signed a pipeline lease with Chief and has recused himself from votes on pipelines. But, under state ethics law, he can vote to break ties.

Another board member, chairman Robert Bayer, is an executive with Linde Corp., a firm whose website says it "specializes in Marcellus Shale, municipal and utility pipeline construction." Its jobs include the Williams pipeline project.

Bayer said he would recuse himself from the zoning hearings for Williams, but would

take part in those for Chief. "I think I can remain impartial," he said.

Last week, Bayer and another board member voted to approve a Chief zoning request for a metering station on its pipeline. Higgins abstained.

Grass-roots movement

The effort to regulate pipelines in Dallas Township is part of a grass-roots movement in Pennsylvania.

Belatedly, many municipal leaders have come to realize that their communities have few land-use tools to deal with the drilling and pipeline-construction boom.

John Gaadt, a planning consultant in Chester County who won federal funding to draft model local pipe ordinances, said many communities' regulations do not even contain the word pipeline. In many rural communities in the heart of shale country, he and others note, there are no zoning codes at all.

While Dallas Township's new ordinance may be nipped in the bud by a statewide law, Gaadt urges communities to take other steps.

One suggestion is to limit construction near pipelines, especially of buildings like office plazas or retirement homes.

Beyond definite setback rules, Gaadt and other experts say towns should create even wider "consultation zones" - areas where developers and pipeline owners would have to at least talk with one another before building could take place.

In Dallas Township, the ordinance would have banned pipelines in residential areas.

While the Marcellus Shale industry has signaled its willingness to pay some sort of drilling tax or impact fee, it also has made it plain that it would like something in return: a strict limit on local government's power to regulate the industry.

Legislation that would turn this trade-off into law is in the works in Harrisburg. The Senate passed its bill last month, 29-20, and the House approved its proposal, 107-76. Passage of a reconciled final law is expected soon.

In any event, both measures treat local zoning the same way. They state that all local ordinances must "authorize oil and gas operations," including pipelines, in all zoning districts."

Significantly, the proposed law would require local governments to treat gas operations as "permitted" uses, not as "conditional" ones. The latter designation would require firms to go through more extensive reviews.

"Not only must you permit it, but you cannot put conditions on it," said Myron Arnowitt, the state director for Clean Water Action, an environmental group helping drum up opposition to the state preemption.

The Dallas Township ordinance would treat pipelines as conditional uses. The industry opposes this approach, saying it amounts to "death by a thousand paper cuts" by requiring far too many hearings, a Range Resources spokesman has said.

Before the state Senate and House took up the measure last month, Gov. Corbett released a statement calling for "a reasonable, consistent and uniform set of rules across the commonwealth."

While all Pennsylvanians want "clear air, clean water, and safety in this growing industry," Corbett wrote, a statewide set of standards was needed to advance "one other goal" - jobs.

The governor also noted that the statewide measure would impose some common controls, such as a noise limit for compressor stations. In residential areas, all wells must be at least 500 feet from the nearest building.

There would be no such setback restrictions for pipelines, though.

The bill has teeth. If the courts or the attorney general finds a community's local law in conflict with the state measure, the community will lose all of its impact-fee money.

Arnowitz said the law would undercut work in dozens of communities.

"This is not a compromise piece of legislation; this is allowing the gas industry to write our local laws," he said.

"I don't think there is a single township that passed a new zoning ordinance in the past three years that meets the new standards. The local laws that have been passed are stricter."

But Spigelmyer, the Chesapeake executive and Marcellus Shale Coalition chairman, said statewide uniformity was sorely needed.

In recent months, he said, more than 80 municipalities across the state have moved to adopt unduly restrictive and unfair rules.

"The way it was working," he said, "they were taking your rights away from you."

Spigelmyer said the pending measure reaffirmed past statutes giving the state government a virtual monopoly in gas and oil regulation.

The measure has stirred considerable conflict among municipal leaders - who want the revenue from the impact fees, but resent the loss of their local powers.

David M. Sanko, executive director of the State Association of Township Supervisors, said his organization was looking for a "sensible, reasonable common ground" that would strike a balance between state and local authority.

Larry Grimm, a supervisor in Mount Pleasant Township in Westmoreland County, was more emphatic. He said Corbett and the legislature were stripping local officials of the ability to tailor laws to fit their unique areas.

"We're different than they are up there in Potter County, enormously different," Grimm said. "They're taking that away from us. It's just that simple."

In Dallas, with opposition quieted, the Williams gathering line is now nearly done. Work on the Chief line is to start next month and finish by the summer.

As for the zoning law that galvanized the township, it is likely to be wiped out when a new state law passes next year.

Even Tomchak, once among the most outspoken pipeline fighters in Dallas, now says he's reluctant to speak out, for fear of being sued like his neighbors.

"I'll work in the background as much as I can," Tomchak said. "I don't want a lawsuit. I'm not rich. I can't afford to defend myself."

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Battle Lines: A Four-Part Series

Sunday

Powerful pipes, weak oversight. Pennsylvania, a center of the shale gas revolution, is now facing a second wave of construction:

the build-out of pipelines to get the gas to market. Yet the pipelines often go unregulated.

Monday

Same pipe, different rules. Gathering lines that link wellheads to interstate lines are being built in large numbers in Pennsylvania to carry shale gas. They are large and move gas at high pressure - but don't receive the same regulation as similar interstate pipelines.

Tuesday

"Us vs. them" in Pa. gaslands. Community activists have begun to take on pipeline companies, but the industry is fighting back - and winning.

Sunday, Dec. 18

Aging pipes, deadly hazards. Philadelphia and other cities have an aging network of old cast-iron pipes to get gas to homes. These pipes blew up this year with fatal consequences in Philadelphia and Allentown.

COMING SUNDAY

The safety hazards posed by aging cast-iron pipelines.

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CITATION (AGLC STYLE)

Craig R. McCoy and Joseph Tanfani INQUIRER STAFF WRITERS, 'Us vs. Them' in Pa. Gaslands Pa. looks set to strip cities and towns of the power to restrict wells and pipelines.', *Philadelphia Inquirer, The* (online), 13 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13BA081DD6A71668>>



Aging Pipes, Deadly Hazards - Miles of leak-prone, cast-iron gas lines run beneath Pa. streets. Slow repair and replacement rates can be deadly.

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Author: Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS | Section: LOCAL | 3715 Words

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Sean Sellers was standing outside his Tacony home in January, a strong smell of natural gas in the air, pointing out the bubbles escaping through cracks in the street to a utility worker.

"Then I saw a bright-orange flash and, a split-second later, boom," he said. The explosion knocked him on his back, which was lucky: "There were bricks flying past my head."

The blast, caused by a leak in a 68-year-old cast-iron pipeline, killed Mark Keeley, 19, a Philadelphia Gas Works employee sent next door to try to fix the leak, and put six others in the hospital.

The explosion leveled an adjacent chiropractic office, broke windows for two blocks around, and tore the front wall off Sellers' home. "It looked like a geyser," he said, "a geyser of fire."

Despite a long history of accidents, and a stack of warnings from safety investigators, there are still thousands of miles of antiquated, leak-prone, cast-iron pipelines running under the streets of Pennsylvania cities and towns. Some are more than 100 years old.

Just three weeks after the Tacony blast, another massive gas explosion, in Allentown, destroyed eight homes and killed five people, including a retired couple and a 4-month-old baby. This one, too, was caused by a leak in an aged cast-iron pipeline, installed in 1928.

When it comes to natural gas pipes, these failing older utility lines pose the greatest

safety hazard in Pennsylvania and the rest of the country. Although the dangers have been known for decades, utilities have been moving slowly to replace the lines, and there are no rules requiring them to move faster.

Last week, state utility regulators charged PGW with a number of safety violations regarding the Tacony accident, near the intersection of Torresdale Avenue and Disston Street. One violation was for a broken valve that went unrepaired for five months.

For PGW, owned by the City of Philadelphia, more than half of its 3,000 miles of gas mains are still made of cast iron, the highest percentage of any utility in the country. The city also ranks first in the share of pipeline installed before 1960.

At the current replacement rate, about 18 miles a year, it will take PGW 85 years to get rid of all the cast iron. "If we had our druthers, we'd replace all the pipe tomorrow," said Randall Gyory, PGW's senior vice president for operations.

But that's not practical, he said. The cost would be about \$1.6 billion. As it is, Gyory said, replacing iron pipes eats up 60 percent of PGW's capital budget every year.

In the meantime, these pipes keep leaking. A look beneath the surface of Philadelphia's streets reveals a PGW system where potentially fatal hazards are commonplace, and utility workers have to race to keep them in check:

Philadelphia has more than 2,000 leaks in its gas mains every year - most of them during cold weather, when frost causes the ground to buckle and the pipes to bend. During 2009, leaks spiked to more than 2,600.

By far, the most dangerous leaks happen when the old mains actually rupture, as happened in the Tacony accident in January. Each year, the city averages more than 300 such main breaks.

Philadelphia has some of the oldest gas pipes still in service in America. Nearly a quarter of them were put in the ground before 1920 - and 10 percent date from the 1800s.

More than 1,100 blocks in Philadelphia are served by gas mains that have broken three or more times, according to one 2007 report. At that time, there were still 57 blocks where the mains had broken five or more times.

The utility declined to reveal the locations of these leakiest pipes, citing the need to protect the system from terrorists.

Still, a map in a 2008 consulting study showed so-called hot zones of leak-prone gas mains scattered throughout the city's neighborhoods, including Fairmount, East Oak Lane, Kensington, and Kingsessing.

This block-by-block tracking system - used by PGW to prioritize its pipe replacements - doesn't always prevent accidents. There had never been a pipeline break in that block of Disston Street before the January accident, PGW said.

Meanwhile, the Pennsylvania Public Utility Commission, in its safety complaint on the Tacony accident, said the utility had not been recording enough details on the condition of its pipes - including how badly they were corroded.

As is the case with pipelines across the country, most of the responsibility for checking the safety of these old, failing, cast-iron pipes falls to the utilities themselves. Government safety checks are mostly handled by thinly staffed groups of state agencies; Pennsylvania has just eight PUC inspectors to cover the whole state.

And the federal safety agency - the Pipeline and Hazardous Materials Safety Administration, a small office within the Department of Transportation - was criticized this fall for its weak oversight of state safety programs.

Promising to do better, the federal agency last week began a series of utility safety audits - beginning in Pennsylvania. The agency's first stop was UGI Utilities Inc. in Allentown.

"We need some more regulation," said Allentown Mayor Ed Pawlowski, who after the accident became a national voice for tougher rules. "And if the state isn't going to do it,

I'm going to keep fighting at the federal level to put regulations in place. Because I'm scared."

'The Twilight Zone'

In Allentown, on the night of Feb. 9, there was no smell of gas, no warning that a pipe was leaking.

When it blew up, at 10:45 p.m., the force ripped free the front door frame of Donald O'Shall's home and sent it flying, striking him in the head. O'Shall thought a bomb had gone off.

"It was tremendously loud," he said. "It's like the whole world jumped."

O'Shall, 61, a locksmith on disability due to cancer, rushed outside to find his neighborhood in ruins. "It was like something from 'The Twilight Zone,' " he said. "It was like seeing a desolate, war-strewn neighborhood. There was debris everywhere."

Killed in the blast were William Hall, 79, who was retired from a bank; his wife, Beatrice, 74; and three people next door - Ofelia Ben, 69; her granddaughter, Katherine Cruz, 16; and Cruz's son Matthew, just 4 months.

More than 600 were evacuated, and the fire burned for four hours.

O'Shall said he was glad the pipeline exploded late in the evening. That way, he said, there was no one at the school bus stop on the corner.

"If it had been the daytime, it would have been horrendous," he said. "Don't get me wrong. It was bad enough as it was. Five people died. Eight homes were destroyed. We lost everything we had. Everything."

Mayor Pawlowski says his fire department routinely scrambles on gas leaks.

He has been pushing UGI to move faster on getting the old pipe out of the ground.

After the Allentown accident, UGI said it would replace six miles of cast-iron pipe in Allentown, double what it did last year, leaving the city with 73 miles of cast-iron pipe. Replacing the pipe costs UGI about \$650,000 a mile.

At its current pace, it will take UGI more than a decade to replace all the cast-iron lines in Allentown.

"That's insane to me," Pawlowski said. "They're making some additional effort this year, but honestly, I think it's way too little, and it's way too late."

He said UGI wouldn't even provide the city with a detailed map of the old pipelines.

"They showed me a map once on my desk," Pawlowski said. "They quickly rolled it up and took it back."

Since 2001, UGI's three utilities in Pennsylvania replaced a total of 189 miles of cast- or wrought-iron mains, the company says.

"We continually evaluate our protocols to ensure we are making prudent decisions regarding our natural gas pipeline replacement program," a company statement said.

A report on the cause of the blast still hasn't been released. The Edison, N.J., lab that studied the mangled pipe was hired by UGI, standard practice in Pennsylvania.

"We don't have the resources to do it," said Jennifer Kocher, a PUC spokeswoman. She said that the labs were "independent" and that their findings were just one piece in the PUC's evaluation about what went wrong.

The PUC declined to make public the lab report from Allentown, saying it was part of a larger investigation.

A record of warnings

Cast-iron pipelines can operate without trouble for many decades, so long as they aren't disturbed. But as they age, they can become more brittle and susceptible to problems: cracks from frost, leaks from joints, buckling from the pressure of street traffic.

"It's damn amazing they should have lasted that long," said Don Deaver, a pipeline-safety consultant from Texas.

Smaller cast-iron pipes are particularly fragile - and the most dangerous. PGW still has more than 1,000 miles of smaller cast-iron mains in its inventory.

Studies have shown old cast-iron pipes are "highly and disproportionately" involved in serious accidents, said Jeffrey D. Wiese, a top pipeline-safety regulator with the Pipeline and Hazardous Materials Safety Administration, speaking at an industry conference.

In 1986, the National Transportation Safety Board, which investigates some pipeline accidents, said that leaks per mile in old cast-iron lines were increasing and that utilities should begin phasing out the pipe.

Before this year, cast-iron pipe failures have caused other deadly accidents, in both Philadelphia and Allentown.

Since 1985, 11 people were killed in natural gas accidents in Philadelphia - eight of them involving cast-iron mains, according to PGW.

The worst came in May 1979, when seven people were killed and 19 injured in an explosion that blew apart George's Bar & Restaurant at Tacony and Margaret Streets. In 1985, three people died in a blast that wrecked four rowhouses on North Mascher Street in West Kensington.

Both times, the mains cracked when leaking water eroded the ground underneath, leaving them hanging in the air unsupported. When that happens, the old cast-iron pipes are much more likely to crack than ones made of modern steel.

Fire officials also said they found a water-main break near the location of the 1942-

vintage, 12-inch cast-iron gas main that caused the January explosion in Tacony, though the investigation results weren't complete.

In Allentown, a main snapped in August 1990, about a mile from the one that blew up this year, touching off an explosion that destroyed two rowhouses and killed a 44-year-old woman. Leaking water pipes were implicated in that incident, too, but the NTSB said the four-inch gas pipeline, dating from 1903, was so badly corroded that failure was "inevitable."

In that report, the NTSB laid blame on the "failure" of UGI Utilities to adequately monitor its pipelines and replace sections weakened by corrosion. It warned that the city was still riddled with century-old, cast-iron gas lines and leaky water pipes that had created dangerous, hidden sinkholes underneath them.

But UGI didn't exactly rush to respond to the NTSB's warnings. In the decade after that report, UGI replaced 55 miles of cast-iron pipe - 15 fewer miles than it had done the previous decade, company figures show.

A similar lack of urgency has pervaded the entire utility industry, according to the NTSB, which said the industry was not doing nearly enough to protect the public from dangerous pipelines.

For many utilities, the NTSB said, safety inspections consisted of workers' scraping suspect pipes with a knife to see if they were soft enough to produce shavings. When the pipes leaked, most utilities "normally do little more than install a leak clamp around the crack and keep the pipeline in operation."

Top executives at UGI and PGW say they work diligently to keep their pipes safe. "It's a core value of our business," said Daniel Adamo, a UGI spokesman, "and we take it very seriously."

Gyory says PGW moves aggressively to respond when people report smelling gas. In more than 97 percent of all reports of possible leaks, PGW has crews on the scene in less than an hour.

For gas utilities in places like Philadelphia, with vast miles of aging, brittle mains under their streets, winter is the anxious season. The best utilities can do is try to manage the leaks - and, when they happen, rush to plug them before an explosion.

At PGW, they move workers to the "leak-management" team and step up their so-called frost surveys. Every three years, PGW workers walk the whole city, looking for leaks.

In deciding which pipelines to replace first, PGW uses a formula that takes into account the size of the pipe, its age, and most important, how many times it has leaked before.

"They're rolling the dice with that old pipe in the ground," said Bob Ackley, owner of Gas Safety Inc., a Massachusetts firm that performs gas-leak surveys.

With so many miles of leaky pipe, and so few being replaced every year, Ackley said utilities' assurances of safety ring hollow. "They say the system is safe. They usually say it right after someone gets killed."

A push for more safety

After the Allentown explosion, U.S. Transportation Secretary Ray LaHood came to the city and, standing at the site of another deadly gas explosion in 1994, called for stronger safety rules - including an effort to step up replacement of older, riskier pipelines.

"People shouldn't have to worry when they flip a light switch in their kitchen that it could cause an explosion in their front yard," he said.

But nothing on the horizon in Washington or Harrisburg would force utilities to move faster.

U.S. Sen. Bob Casey (D., Pa.) pushed through a measure that would require utilities to make reports on their progress on replacing cast-iron pipelines, and for the Pipeline and Hazardous Materials agency to check up on them. But the agency's report isn't due to Congress for two more years.

The idea, Casey said, is to focus more attention on the utilities' performance and spur public pressure. He had pushed for more frequent reporting requirements, but they were stripped out of a compromise version.

"I think they have to take more responsibility than they have to date," he said in an interview. "A company like UGI would be wise to really focus on the outrage that people feel and the demand for change."

As for why there's no timetable for replacing the pipe, Casey said: "Sometimes, it's what you can pass and what's achievable."

Cost has been a formidable obstacle.

It's a particularly high hurdle for PGW, which serves the poorest big city in the country and already charges the highest gas bills in the state. The utility's past financial troubles mean it is still saddled with big debts that make borrowing more expensive.

Rina Cutler, a deputy mayor, says the city would like to move faster - but isn't sure PGW's customers could tolerate the added cost. "Whether we're talking about gas mains or water mains or roads or bridges, the infrastructure is crumbling fast," Cutler said, "and no one seems to want to figure out how to fund it. And it's disgraceful."

But there appears to be little appetite in Congress for providing money to replace these failing natural gas pipelines.

"That is a Philadelphia problem," said U.S. Rep. Bill Shuster, a Republican from south-central Pennsylvania, and chairman of a subcommittee that oversees pipeline safety.

"If the people of the city of Philadelphia care about that, they ought to act on it," Shuster said. "It's going to cost a lot of money. It shouldn't be something forced on consumers by the federal government."

Four years ago, State Rep. Dwight Evans (D., Phila.) proposed a \$1 billion loan fund for

utilities to replace old pipes and other ancient infrastructure, but it went nowhere.

"As usual, the problem is no one pays attention to this stuff until someone gets killed," Evans said. "This is out-of-sight, out-of-mind."

The state House this year passed a bill that would allow utilities, with PUC permission, to apply a surcharge to bills to pay for replacement of the old lines.

That would allow utilities to recover costs without going through a long, expensive rate-hike proceeding before the PUC; a similar method is already in place for Pennsylvania's water utilities.

The bill is now before the state Senate, which is expected to take up action in January.

Once again, the measure has drawn opposition from some legislators and consumer advocates, who say they would give gas companies a way to raise customers' bills without having to justify it.

Irwin A. "Sonny" Popowsky, Pennsylvania's consumer advocate, says the law is flawed; he thinks it would allow utilities to use the surcharge as a backdoor way to boost profit.

If legislators were serious about boosting safety, he said, they would also require utilities to step up the pace of their cast-iron replacement - not allow them to set their own schedule. "The bill would allow them to continue with business as usual," he said.

Last month, the PUC said it wanted utilities to file new plans by next summer on how it would manage the risks of the cast-iron pipe.

But neither the legislation nor the new PUC rules would require utilities to do the work faster.

"The companies want to do this," said Terrance Fitzpatrick, president of the Energy Association of Pennsylvania, a utility lobbying group. They'll move more quickly if they have an easier way to recover costs, he said.

Pennsylvania's utilities, he said, have done "a reasonable job" in replacing the old lines. "I do think we can do better, though."

Pawlowski said utilities like UGI could afford to invest more in replacing their old pipes. UGI reported \$232 million in net income last year. PGW reported net earnings of \$58 million.

"Though I understand the economics, I think safety has to trump here," the mayor said. "This is something that keeps me up at night."

Many of the Allentown victims are still putting their lives back together. Some have received settlements from UGI. Other legal cases are pending. Adamo, the UGI spokesman, said the company had worked "diligently" to try to help the victims.

"We were very proactive, reaching out to the families, going door to door, expediting our claims process," he said.

Since the explosion in February, O'Shall has been a vagabond. For a few nights, a Comfort Inn put him up for free. Then, his employer rented him an apartment. Finally, with money raised by a charity drive, he bought a foreclosed and vandalized house in Florida, near one of his sons.

"They were giving it away for next to nothing, and next to nothing was what I had left from the collection money," he said.

He says that he misses Allentown but that his new town has a big plus: "There's no gas lines anywhere. That's good."

Contact staff writer Joseph Tanfani at 215-854-2684 or jtanfani@phillynews.com.

Before You Dig, Be Sure to Call 811

Anyone who will be digging as part of a construction project should call 811 at least

three days before starting work.

The state's One Call System will notify the owners of underground lines so that their crews can come out to the work site and mark the lines.

The spread of One Call Systems nationwide over the last 15 years has done much to reduce injuries caused by excavators' hitting underground lines.

For more information, go to the system's website, at www.paonecall.org.

Battle Lines: A Four-Part Series

Last Sunday

Powerful pipes, weak oversight. Pennsylvania, a center of the shale gas revolution, is now facing a second wave of construction:

the build-out of pipelines to get the gas to market. Yet the pipelines often go unregulated.

Monday

Same pipe, different rules. Gathering lines that link wellheads to interstate lines are being built in large numbers in Pennsylvania to carry shale gas. They are large and move gas at high pressure - but don't receive the same regulation as similar interstate pipelines.

Tuesday

"Us vs. Them" in Pa. Gasland. Community activists have begun to take on pipeline companies, but the industry is fighting back - and winning.

Sunday

Aging pipes, deadly hazards. Philadelphia and other cities have an aging network of old cast-iron pipes to get gas to homes. These pipes blew up this year with fatal consequences in Philadelphia and Allentown.

DEEP DRILL

REPORTS FROM PENNSYLVANIA'S GASLAND

To explore the issues in depth, go to Deep Drill at www.philly.com/deepdrill, The Inquirer's new Marcellus Shale section on the Web.

There, you can read the series, and view photo galleries, videos, and graphics - and an archive of other Inquirer stories on the shale boom and pipeline safety.

You can also:

- * Read consultants' reports on PGW's aging pipeline system. One report includes a map showing the city's most leak-prone pipes.
- * Review an interactive map showing the dramatic growth of pipelines in the epicenter of drilling - Bradford County, in northern Pennsylvania.
- * Check out an interactive map of every well permit issued since 2005 and every well drilled this year.
- * Watch a video presentation on how pipelines are built and see interviews with a pipeline company executive and a leading activist.

The Inquirer team

This project was reported by Craig R. McCoy and Joseph Tanfani. John Tierno provided graphics and analysis. Michael Bryant was the photographer and videographer. Rob Kandel, Josh Cohen, and Frank Wiese designed the online package. Pages were designed

by Steve Kelly. The project was copyedited by Bob Kelley,

Thom Guarnieri, Peter Rozovsky, and Suzanne Weston. Mike Leary was editor of the project.

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CITATION (AGLC STYLE)

Joseph Tanfani and Craig R. McCoy INQUIRER STAFF WRITERS, 'Aging Pipes, Deadly Hazards Miles of leak-prone, cast-iron gas lines run beneath Pa. streets. Slow repair and replacement rates can be deadly.', *Philadelphia Inquirer, The* (online), 18 Dec 2011 A01 <<https://infoweb-newsbank-com.aws-ezproxy-production.jenkinslaw.org/apps/news/document-view?p=AWNB&docref=news/13BC0518388DFF30>>

WESTOVER EXHIBIT AS-3

ACT 127 OF 2011 –

THE GAS AND HAZARDOUS LIQUIDS PIPELINE ACT

FREQUENTLY ASKED QUESTIONS

Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act Frequently Asked Questions



1. WHAT IS ACT 127 – THE PIPELINE ACT?

Signed into law Dec. 22, 2011, the Gas and Hazardous Liquids Pipelines Act expanded the Pennsylvania Public Utility Commission's (PUC) authority to enforce the federal pipeline safety laws as they relate to non-public utility gas and hazardous liquids pipeline equipment and facilities within the state.

2. WHEN DID THE PIPELINE ACT TAKE EFFECT?

Feb. 20, 2012

3. WHY WAS THE PUC CHARGED WITH ENFORCING THE PIPELINE ACT?

The PUC is an agent for the federal Department of Transportation's Office of Pipeline and Hazardous Materials Safety Administration, charged with enforcing the federal pipeline safety regulations in Pennsylvania. The Governor and the Legislature decided that as such, the PUC should take on this additional responsibility and expanded the PUC's oversight.

4. WHAT WILL PUC ENFORCEMENT INCLUDE?

The PUC already monitors compliance with federal and state regulations by conducting frequent inspections of pipeline facilities and records of regulated gas utilities. More than 45 different types of inspections are included in the PUC's monitoring of natural gas companies and their pipeline safety. The inspections of these newly regulated facilities will be similar.

Under the Pipeline Act, the PUC has developed a registry and conducts safety inspections of the lines for all pipeline operators in the state. The Commission identifies and tracks the development of pipelines in less populated areas that transport gas from unconventional gas wells.

5. TO WHOM DO THE PROVISIONS IN ACT 127 APPLY?

Any entity who owns or operates equipment or facilities within the Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under federal pipeline safety laws.

6. WHAT IS CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Pipeline operators include: Companies engaged in the gathering, transportation or distribution of natural gas or hazardous liquids.

These include gathering companies; midstream companies; pipeline companies; gas distribution systems that are not public utilities (cooperatives, municipalities, and municipal authorities); master meter systems that provide service to property owned by third parties; and propane distribution systems subject to the federal pipeline safety laws.

7. WHAT IS NOT CONSIDERED A PIPELINE OPERATOR UNDER ACT 127?

Those who are not pipeline operators include: Public utilities and city natural gas distribution operations, ultimate consumers who own service lines on their real property (including master meter systems serving their own property), and pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission (FERC).

A petroleum gas distributor who is not subject to the federal pipeline safety laws also is not considered a pipeline operator under the Pipeline Safety Act. Petroleum gas pipelines subject to the federal pipeline safety laws are pipeline operators subject to Act 127 and must register with the Commission. However, such entities can use proof of registration with Pennsylvania Department of Labor and Industry (L&I) to do so.

8. WHAT IF MY ENTITY HAS PORTIONS THAT ARE COVERED UNDER ACT 127 AND PORTIONS THAT ARE NOT?

If a person operates multiple facilities, some of which are subject to Act 127 and some of which are not, the person is a pipeline operator only with regard to the facilities subject to Act 127. For example, a person who operates a FERC jurisdictional transmission pipeline facility in addition to non-FERC jurisdictional gathering lines is a pipeline operator only with regard to the non-FERC jurisdictional gathering lines.

9. WHAT INFORMATION IS INCLUDED IN THE REGISTRY?

The registration, which is required to be filed and renewed annually, includes the location of the pipeline by class and approximate aggregate miles of pipeline serving unconventional wells.

Registrants must provide contact information, U.S. Department of Transportation (U.S. DOT) Operator ID number and federal employee identification number.

Registrants also must provide the country of manufacture for all tubular steel product installed in Pennsylvania for the exploration, gathering or transportation of natural gas or hazardous liquids during the prior calendar year.

10. WHAT IF MY ENTITY HAS MORE THAN ONE U.S. DOT OPERATOR ID NUMBER?

An entity with multiple U.S. DOT Operator ID numbers must register each U.S. DOT Operator ID number as a separate pipeline operator.

11. WHAT IS THE REGISTRATION FEE?

The registration fee is \$250 to be paid annually to the PUC. This does not include additional money assessed by the Commission to perform its duties under Act 127.

12. WHAT IS THE DEADLINE FOR REGISTRATION?

The annual registration must be submitted to the Commission by March 31 of each year.

13. MY ENTITY RECEIVED INFORMATION FROM THE COMMISSION ABOUT REGISTRATION, BUT WE DO NOT BELIEVE WE FIT THE DEFINITION. WHAT SHOULD WE DO?

Entities who are not pipeline operators pursuant to the Pipeline Act need not register, but should email Commission staff at ra-Act127@pa.gov with a justification in order to be removed from the Commission's mailing list. An entity's determination that they are not required to register under the Pipeline Act is subject to review by the Commission.

14. WHAT IF A PIPELINE OPERATOR DOESN'T REGISTER?

Pipeline operators who fail to register will be subject to civil penalties of up to \$10,000 a day that the violation persists.

15. HOW IS TUBULAR STEEL PRODUCT DEFINED?

Tubular steel product means pipe, not valves or other facilities or equipment.

16. WHAT IF THE COUNTRY OF MANUFACTURE FOR THE TUBULAR STEEL PRODUCT IS UNKNOWN?

If the country of manufacture is unknown, registrants should then indicate the length of the product installed.

17. WHY IS THE PUC CHARGING AN ASSESSMENT?

The Pipeline Safety Act authorized the PUC to assess Pennsylvania pipeline operators for the Commission's cost of carrying out the responsibilities to enforce federal pipeline safety laws as they relate to non-public utility gas and hazardous liquid pipeline equipment and facilities within the state.

18. WHAT COSTS MAY BE ASSESSED?

The PUC may assess the total approved annual budget for the gas and hazardous liquids pipeline safety program net of any Federal offset or shortfall. At the end of the fiscal year when actual costs for the entire program are determined any excess funding will be deducted from the following year's net budget amount.

19. HOW IS THE ASSESSMENT DISTRIBUTED AMONG THE PIPELINE OPERATORS?

As defined in the Act the total intrastate assessable miles are divided by the net budget amount applicable for the fiscal year. This amount is then multiplied by each pipeline operator's reported intrastate assessable mileage.

20. ARE ANY ENTITIES EXEMPT FROM PAYING THE ASSESSMENT?

Under the Pipeline Safety Act, pipeline operators who are boroughs are exempt from paying the assessment.

21. WHAT IS THE SCHEDULE FOR THE ANNUAL ASSESSMENTS AND PAYMENT DATES?

Invoices for assessment are created after the PUC budget is approved and final calculation are completed. However, it is dependent upon when the legislature and Governor approve the budgets. The expected date for invoices would be in early July each year with the payment due 30 days after receipt of the invoice.

FOR FURTHER INFORMATION, CONTACT THE PUBLIC UTILITY COMMISSION:

WRITE

PA Public Utility Commission
Law Bureau
P.O. Box 3265
Harrisburg, PA 17105-3265

CALL

(717)787-5000

VISIT OUR WEBSITE

www.puc.state.pa.us

EMAIL

ra-Act127@pa.gov



WESTOVER EXHIBIT AS-4

I&E'S ANSWER TO INTERROGATORY SET I, NO. 8

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251
	:	
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**ANSWERS OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO THE INTERROGATORIES OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES – SET I**

Pursuant to 52 Pa. Code § 5.342(a), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Answers to the Interrogatories of Westover Property Management Company, L.P. d/b/a Westover Companies – Set I, directed to I&E.

8. Describe all educational activities I&E has undertaken to advise master meter operators of their jurisdictional status since the enactment of Act 127.

Answer:

PECO, in partnership with I&E, conducted natural gas master meter operator training sessions on June 5, 2019 and September 18, 2019 to master meter operators within PECO's service territory who responded to PECO's invitation.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer - 2

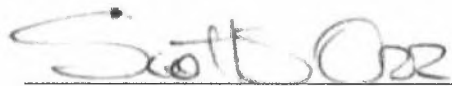
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251
	:	
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

VERIFICATION

I, Scott Orr, Fixed Utility Valuation Engineer – 2, in the Bureau of Investigation and Enforcement’s Safety Division, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: February 22, 2022



Scott Orr
Fixed Utility Valuation Engineer – 2
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

WESTOVER EXHIBIT AS-5
FEBRUARY 3, 2021 CORRESPONDENCE
FROM I&E TO WESTOVER



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

IN REPLY PLEASE
REFER TO OUR FILE

February 3, 2021

REFERENCE:
NC-77-20
IREF: 13663

VIA EMAIL DELIVERY

Alexander Steffanelli, CFO
Westover Company
2501 Maryland Road
Willow Grove, PA 19090

Dear Mr. Steffanelli:

On December 2, 2020 Pennsylvania Public Utility Commission's Pipeline Safety Engineer S. Orr and Supervisor T. Cooper Smith completed inspections of facilities and/or records on Westover Companies in Willow Grove, PA. As a result of the inspection, the Pipeline Safety Section of the Pennsylvania Public Utility Commission has discovered that Westover Company is in violation of the following federal and state regulations:

- (1) **49 CFR § 192.13 What general requirements apply to pipelines regulated under this part?**
 - (c) Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.
- (2) **49 CFR § 192.605 Procedural manual for operations, maintenance, and emergencies**
 - (a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least one each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Code Section	Inspector's Comments
§192.13(c)	Westover Companies does not have a manual required by Part 192
§192.605(a)	Westover Companies does not have a procedural manual for Operations, Maintenance, & Emergencies (O&M).

Mr. Orr and Ms. Cooper Smith conducted an Operations and Maintenance (O&M) inspections for the Westover Companies. During the inspection, it was discovered the Westover Companies does not have any written O&M plans as required by 49CFR Part 192.

NC-77-20
Page 2

Therefore, you are hereby requested to submit to this office in writing, on or before March 17, 2021, the following:

- 1) Develop and implement an Operations, Maintenance, and Emergency Response manual as required by 49CFR§192.
- 2) Develop a process to document and track all records required by these manuals and procedures.

This office is committed to ensuring that pipeline companies comply with the provisions of the Public Utility Code. Therefore, you are advised that, if you fail to comply with the above requests this office will initiate all appropriate enforcement actions pursuant to the Public Utility Code against the utility and its officers, agents and employees.

Yours truly,



Robert Horensky, Manager
Safety Division
Bureau of Investigation and Enforcement

RH:rb

PC: Richard Kanaskie, Director, I&E
Terri Cooper Smith, Fixed Utility Valuation Supervisor
Scott Orr, Fixed Utility Valuation Engineer

WESTOVER EXHIBIT AS-6
MARCH 30, 2021 CORRESPONDENCE
FROM I&E TO WESTOVER



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

IN REPLY PLEASE
REFER TO OUR FILE

March 30, 2021

REFERENCE:
NC-08-21
IREF:13651

VIA EMAIL DELIVERY

Alexander Steffanelli CFO
Westover Companies
2501 Maryland Road
Willow Grove, PA 19090

Dear: Mr. Steffanelli

During the calendar year 2020 and 2021 Pennsylvania Public Utility Commission's Pipeline Safety Engineer, S. Orr has attempted to conduct inspections of facilities and/or records on Westover Companies in Willow Grove, PA. As a result of these inspections, the Pipeline Safety Section of the Pennsylvania Public Utility Commission has discovered that Westover Companies is in violation of the following federal and state regulations:

(1) 49 CFR §190.203 Inspections and Investigations

- (a) Officers, employees, or agents authorized by the Associate Administrator for Pipeline Safety, upon presenting appropriate credentials, are authorized to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining the compliance of such persons with the requirements of 49 U.S.C. 60101 et seq., or regulations, or orders issued there under.

Code Section	Inspector's Comments
§190.203(a)	Westover Companies is not responding to requests for inspections on records and facilities.

Westover Companies has been identified as a master meter operator in the Commonwealth of Pennsylvania. The Gas and Hazardous Liquids Pipelines Act (also known as "the Pipeline Act" or Act 127 of 2011) was signed by Governor Corbett on Dec. 22, 2011 and went into effect on February 20, 2012. This law expands the Commission's authority to enforce federal pipeline safety laws as they relate to gas and hazardous liquids pipeline equipment and facilities within the Commonwealth of Pennsylvania.

On Feb. 16, 2012, the PUC adopted an Implementation Order at Docket M-2012-2282031. It establishes the Act 127 initiatives of creating a statewide registry for non-public utility gas and hazardous liquids pipeline equipment and facilities within the Commonwealth; conducting safety inspections to enforce Federal pipeline safety laws on certain classifications of pipeline; and assessing entities for the costs.

NC-08-21
Page 2

ACT 127 gives the Bureau of Investigation and Enforcement(I&E) authority to enforce federal regulations found under 49 CFR Part 190, 191, and 192 on pipeline operators in the Commonwealth of Pennsylvania. Specifically, 49 CFR Part 190.203(a) gives I&E Safety Division access to inspect records and facilities owned by the company. I&E Pipeline Safety inspectors met with Westover Companies in December 2020. At that time, an inspector discussed the requirements that the company would need to follow in operating their gas system after the meter with PECO. Attempts were made on December 17, December 24, and December 30, 2020 and January 11 and January 14, 2021 to schedule follow up inspections and review records and procedures with no response received back from the company.

This letter is to serve as notice of Westover Companies responsibility to respond to the request for meetings and inspections. Continued failure of response by Westover Companies will result in the Bureau of Investigation and Enforcement Safety Division in taking legal action against the company including possibly civil penalties. Westover has yet to respond in writing to NC 77-20 dated February 2, 2021 and was due by March 17,2021

Therefore, you are hereby requested to submit to this office, in writing, on or before April 29, 2021, the following:

- 1) Respond to the request of the inspector to schedule inspections on Westover Companies records and facilities.
- 2) Provide a written response to NC 77-20.

This office is committed to ensuring that pipeline companies comply with the provisions of the Public Utility Code. Therefore, you are advised that, if you fail to comply with the above requests this office will initiate all appropriate enforcement actions pursuant to the Public Utility Code against the utility and its officers, agents and employees.

Yours truly,



Robert Horensky, Manager
Safety Division
Bureau of Investigation and Enforcement

RH:rb

PC: Richard Kanaskie, Director, I&E
Terri Cooper Smith, Pipeline Safety Supervisor
Scott Orr, Fixed Utility Valuation Engineer II

WESTOVER EXHIBIT AS-7
JUNE 2, 2021 CORRESPONDENCE
FROM I&E TO WESTOVER



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

June 2, 2021

Via Electronic Mail Only

Mr. Alexander Steffanelli
Westover Property Management Company, L.P.
d/b/a Westover Companies
550 American Avenue
Suite 1
King of Prussia, PA 19406
alex@westovercompanies.com

Re: Westover Property Management Company, L.P. d/b/a Westover Companies
Bp8CaseID# 3025977
I&E-Enforcement Warning Letter

Dear Mr. Steffanelli,

The purpose of this letter is to provide Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") with one final opportunity to respond to the Bureau of Investigation and Enforcement's ("I&E") request that it comply with the laws and regulations governing its master meter system. If compliance is not achieved within the timeframe set forth herein, I&E is prepared to initiate a formal enforcement action before the Commission that would seek the imposition of **stiff civil penalties** on Westover, up to \$225,134 per violation for each day the violation continues, subject to a maximum penalty of \$2,251,334 for a related series of violations.

On May 22 and 23, 2018, inspectors from the I&E Safety Division of the Pennsylvania Public Utility Commission¹ visited a property owned and managed by Westover in response to a natural gas leak and service outage reported by PECO Gas. PECO Gas reported that the outage impacted a master meter system at the Jamestown Village Apartments located at 2501 Maryland Road, Willow Grove, PA 19090. After ensuring that the leak was properly repaired and service restored, the Safety Division shifted the focus of its investigation to examine whether the pipeline facilities at the Jamestown Village Apartments constitute a "master meter system" as defined in 49 CFR § 191.3 and subject to Commission oversight through the Gas and Hazardous Liquids Pipelines Act ("Act 127"), 58 P.S. §§ 801.101, *et seq.*

On December 2, 2020, the Safety Division completed an inspection of Westover's facilities and records, and concluded that Westover operates a regulated master meter system. During the inspection, inspectors from the Safety Division discussed with representatives from Westover the requirements that are necessary for Westover to comply with Act 127 and

¹ The Safety Division serves as an agent of the federal Pipeline and Hazardous Materials Safety Administration ("PHMSA") and enforces compliance with Pennsylvania laws and regulations as well as federal pipeline safety laws and regulations governing the transportation of natural gas.

Mr. Alexander Steffanelli
June 2, 2021
Page 2

the federal pipeline safety regulations. On December 17, December 24, and December 31, 2020 as well as on January 11, and January 14, 2021, the Safety Division attempted to schedule a follow-up inspection with Westover that would review the manual and procedures that the Safety Division asked Westover to develop in order to become compliant. Westover did not respond to any of the Safety Division's attempts to communicate with it.

By letter dated February 3, 2021, the Safety Division issued a non-compliance letter, NC-77-20, finding Westover to be in violation of 49 CFR §§ 192.13 and 192.605 for failing to have a manual as required in Part 192 of the federal pipeline safety regulations and a procedural manual for Operations, Maintenance and Emergencies ("O&M Manual"). The Safety Division requested that Westover respond to NC-77-20 in writing on or before March 17, 2021, with a response that demonstrates that it developed and implemented an O&M Manual and a process to document and track all records required by the pertinent manuals and procedures. Westover failed to respond to NC-77-20.

By letter dated March 30, 2021, the Safety Division issued a second non-compliance letter, NC-08-21, finding Westover to be in violation of 49 CFR § 190.203(a) (permitting agents of PHMSA to enter and inspect the records and properties of persons to determine the compliance of such persons with federal pipeline safety laws and regulations). The Safety Division requested that Westover respond in writing on or before April 29, 2021, with a response that schedules the Safety Division's follow-up inspection of Westover's facilities and records and replies to NC-77-20. In NC-08-21, the Safety Division warned that a continued failure to respond would result in I&E taking legal action against Westover, including seeking the imposition of civil penalties. Westover failed to respond to NC-08-21.

The Safety Division referred this matter to I&E-Enforcement, which is the prosecutory arm of the Commission empowered to take legal action to enforce compliance with, *inter alia*, Act 127 and federal pipeline safety laws and regulations. Prior to initiating a formal enforcement proceeding before the Commission, which would entail extensive discovery, an evidentiary hearing, potential travel for witnesses and the filing of post-hearing briefs, I&E-Enforcement deemed it appropriate to make one final attempt to elicit Westover's compliance with the applicable law. I&E requests that Westover perform the following **on or before June 22, 2021**:

- Develop and implement an O&M Manual as required by 49 CFR Part 192;
- Develop a process to document and track all records required by the applicable manuals and procedures;
- Arrange for a follow-up inspection with Safety Division Supervisor T. Cooper Smith and Safety Division Engineer S. Orr at tcsmith@pa.gov and scoorr@pa.gov, respectively; and
- Register as a Pennsylvania pipeline operator pursuant to Act 127.

Should Westover fail to fully perform each of the above-listed items by the date referenced herein, I&E-Enforcement will swiftly file a formal complaint against Westover

Mr. Alexander Steffanelli
June 2, 2021
Page 3

that seeks the imposition of a civil penalty. I&E-Enforcement's requested civil penalty would consider Westover's well-documented failure to cooperate with the Safety Division's investigation. Please be advised that I&E is authorized to seek a civil penalty of \$225,134 per violation for each day the violation continues, with a maximum penalty of \$2,251,334 for a related series of violations.² Furthermore, as a corporation, Westover is required to be represented by legal counsel in contested proceedings before the Commission.

Thank you for your immediate attention to this important matter.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 772-8839
stwimer@pa.gov

cc: Michael L. Swindler, I&E Deputy Chief Prosecutor (*via e-mail only*)
Kayla L. Rost, I&E Prosecutor (*via e-mail only*)
Robert D. Horensky, Manager - Safety Division (*via e-mail only*)

² See 58 P.S. § 801.502 (a); 49 CFR § 190.223, as modified by *Department of Transportation; Civil Penalty Amounts*. 86 Fed. Reg. 23241 (May 3, 2021).

WESTOVER EXHIBIT AS-8
JULY 28, 2021 CORRESPONDENCE
FROM I&E TO WESTOVER



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

July 28, 2021

Via Electronic Mail Only

Mr. Alexander Steffanelli
Westover Property Management Company, L.P.
d/b/a Westover Companies
550 American Avenue
Suite 1
King of Prussia, PA 19406
alex@westovercompanies.com

Re: Investigation of Westover Property Management Company, L.P. d/b/a Westover Companies Relating to Possible Violations of the Gas and Hazardous Liquids Pipelines Act and Federal Pipeline Safety Laws and Regulations
Bp8CaseID# 3025977
I&E Letter

Dear Mr. Steffanelli,

As you are aware, the Bureau of Investigation and Enforcement ("I&E") of the Pennsylvania Public Utility Commission ("Commission") has been investigating Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") pursuant to Section 801.501 of the Gas and Hazardous Liquids Pipelines Act ("Act 127"), 58 P.S. § 801.501, and Section 3.113 of the Commission's regulations, 52 Pa. Code § 3.113. This investigation focuses on determining which apartment complexes owned or managed by Westover meet the definitions of "pipeline operator" and "master meter system" set forth in 58 P.S. § 801.102 and 49 CFR § 191.3, respectively, such that compliance with Federal pipeline safety laws and regulations, including 49 CFR Part 192, is obligatory.

Also, as you are aware, I&E issued a Warning Letter dated June 2, 2021, to prompt Westover's compliance with Act 127 by, *inter alia*, registering as a pipeline operator and developing and implementing an Operations and Maintenance ("O&M") Manual required by 49 CFR Part 192, prior to I&E's initiation of a formal enforcement action that would seek civil penalties. The assertions set forth in the Warning Letter were based on a preliminary determination by the I&E Safety Division that Westover operates a regulated master meter system at Jamestown Village Apartments in Willow Grove, PA.

Subsequently, by email dated June 4, 2021, I&E clarified its Warning Letter to indicate that any O&M Manual that is developed by or on behalf of Westover should encompass **all** jurisdictional master meter systems operated by Westover in any of the apartment complexes that it manages in Pennsylvania.

Thereafter, on June 28, 2021, Westover registered only Jamestown Village Apartments, LP as an Act 127 pipeline operator and reported zero jurisdictional intrastate pipeline miles. On July 10, 2021, Westover provided a draft O&M Manual to I&E that included the Jamestown Village Apartments and not any other Westover apartment complex in Pennsylvania.

Mr. Alexander Steffanelli
July 28, 2021
Page 2

On July 15, 2021, the I&E Safety Division inspected Westover's records and scheduled a follow-up inspection for August 24, 2021. Prior to the August 24, 2021 inspection, the I&E Safety Division expects Westover to complete various tasks and prepare certain documents for inspection by I&E. The following items are to be completed and electronically provided to the undersigned **on or before August 9, 2021**:

1. Compile and provide a list of all Westover properties in Pennsylvania with a jurisdictional master meter system;
2. Provide a list of all Westover emergency contacts, including the names of individuals and mobile and office numbers that can be contacted on a 24/7 basis; and
3. File an Act 127 pipeline operator registration or registrations that include all jurisdictional master meter systems in Pennsylvania and provide a copy of the filing(s).

The following items are to be completed and presented to the I&E Safety Division **at the inspection scheduled for August 24, 2021**:

4. Develop and implement an O&M plan for all jurisdictional master meter locations in Pennsylvania and have ready for inspection a complete manual;
5. Develop a map of all jurisdictional master meter locations in Pennsylvania that shows gas mains and facilities; and
6. Develop and implement an Operator Qualification Plan.

A failure to comply with the above-listed items will subject Westover to prosecution that will seek the imposition of civil penalties.

Thank you for your immediate attention to this important matter.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 772-8839
stwimer@pa.gov

cc: Michael L. Swindler, I&E Deputy Chief Prosecutor (*via e-mail only*)
Kayla L. Rost, I&E Prosecutor (*via e-mail only*)
Robert D. Horensky, Manager - Safety Division (*via e-mail only*)

WESTOVER EXHIBIT AS-9

I&E'S ANSWER TO INTERROGATORY SET I, NOS. 25 - 27

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251
	:	
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**ANSWERS OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT
TO THE INTERROGATORIES OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES – SET I**

Pursuant to 52 Pa. Code § 5.342(a), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Answers to the Interrogatories of Westover Property Management Company, L.P. d/b/a Westover Companies – Set I, directed to I&E.

25. Identify all actions taken by I&E to investigate Westover prior to filing the Complaint. For every action, identify the I&E staff involved and the date of the action taken.

Answer:

Paragraphs 24-44 in I&E's Complaint docketed at C-2022-3030251 and filed on January 3, 2022 identify actions taken by I&E to investigate Westover prior to the filing of said Complaint. Additional actions appear below.

5/21/2018 – PECO notified Ms. Cooper Smith of a natural gas leak at Jamestown Village Apartments and subsequent service outage. Ms. Cooper Smith apprised Mr. Horensky and Mr. Orr about the leak.

5/22/2018 – Ms. Bozhko and Mr. Apetoh visited Jamestown Village Apartments to observe repairs made.

5/23/2018 – Ms. Bozhko met with Westover maintenance tech George Kuhn and verified that service was restored at Jamestown Village Apartments by 11:00 pm on 5/22/2018.

5/29/2018 – Ms. Bozhko met with C. Riley, J. Grenfell (maintenance director of Westover properties), and Peter Quercetti (Westover Vice President of operations management).

9/11/2018 – Ms. Bozhko visited Jamestown Village Apartments to verify that repair work was complete.

12/2/2020 – Ms. Cooper Smith and Mr. Orr conducted a virtual inspection of Westover's operations and maintenance records, or lack thereof, with Westover representatives. The inspection was virtual due to COVID-19 restrictions.

7/30/2021 – Mr. Orr conducted field inspections at Main Line Berwyn, Hillcrest, Landsowne Towers, Blackhawk, Caln East, Paoli Place, Southern Valley Townhomes, Norriton East, and

Westover Village. Mr. Orr also met with Westover representatives at Westover's corporate headquarters.

8/25/2021 – Mr. Orr conducted field inspections at Park Court, Victoria Crossing, Woodland Place, Oak Forest, Lansdale Village, and Valley Stream.

8/26/2021 – Mr. Orr conducted field inspections at Newport Village, Country Manor, Mill Creek, Willow Run, and Fox Run.

8/26/2021 – Mr. Apetoh conducted a field inspection at Carlisle Park.

9/10/2021 – Ms. Cooper Smith conducted a field inspection at Galey Park, Woodview, Rolling Glen, Concord Court, Rosetree Crossing, Boothwyn Court, and Gladstone Towers.

9/20/2021 – Ms. Cooper Smith and Mr. Orr met with representatives from Westover and the Oak Tree Group.

10/4/2021 – Ms. Cooper Smith and Mr. Orr visited Westover headquarters to conduct a gas distribution operations and maintenance inspection.

10/12/2021 – Ms. Cooper Smith and Mr. Orr visited Westover headquarters to conduct a gas distribution operator qualification inspection.

10/13/2021 – Ms. Cooper Smith and Mr. Orr visited Westover headquarters to review and discuss the operations plans and Act 127 registration.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 2 and Elena Bozhko, Fixed Utility Valuation Engineer – 2

26. Identify all I&E personnel who participated in any way in the investigation of Westover prior to filing the Complaint.

Answer:

Scott Orr
Fixed Utility Valuation Engineer – 2
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3416

Elena Bozhko
Fixed Utility Valuation Engineer – 2
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3416

Kokou Apetoh
Fixed Utility Valuation Engineer – 1
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3416

Robert Biggard
Fixed Utility Valuation Engineer Supervisor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3416

Terri Cooper Smith
Fixed Utility Valuation Engineer Supervisor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-3416

Robert Horensky
Fixed Utility Manager
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
(717) 787-1063

Shabnam Dhull
Civil Engineer Trainee
This individual is no longer employed in I&E or at the PUC.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 2

27. Identify any instance where I&E personnel entered properties owned or operated by Westover without the express consent of Westover. Identify the name and title of the I&E personnel, the date, the time, the location, and the reason for entry. Please provide car or phone GPS tracking logs for these employees on the dates they entered Westover properties.

Answer:

On July 30, 2021, approximately between 9:30 am and 10:00 am, Terri Cooper Smith, Fixed Utility Valuation Engineer Supervisor, and Scott Orr, Fixed Utility Valuation Engineer – 2, walked through an open doorway of an apartment house at Main Line Berwyn ,750 Old Lancaster Road, Berwyn, PA 19312 to visually inspect the master meter systems, which are located in a common area of the building. After reasonable investigation, I&E is not in possession of car or phone GPS tracking logs.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 2

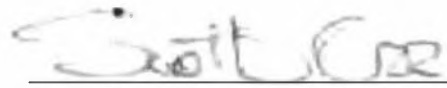
**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251
	:	
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

VERIFICATION

I, Scott Orr, Fixed Utility Valuation Engineer – 2, in the Bureau of Investigation and Enforcement’s Safety Division, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: February 22, 2022



Scott Orr
Fixed Utility Valuation Engineer – 2
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120


**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket No. C-2022-3030251
	:	
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

VERIFICATION

I, Elena Bozhko, Fixed Utility Valuation Engineer – 2, in the Bureau of Investigation and Enforcement’s Safety Division, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: February 22, 2022



Elena Bozhko
Fixed Utility Valuation Engineer – 2
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

WESTOVER EXHIBIT AS-10
I&E SUPPLEMENTAL ANSWERS TO
INTERROGATORIES SET III NOS. 2, 3 AND 5



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 7, 2023

Via Electronic Mail

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Westover Property Management Company, L.P.
d/b/a Westover Companies
Docket Nos. C-2022-3030251; P-2021-3030002
I&E Supplemental Answers to Westover Interrogatories - Set III (Nos. 2, 3, & 5)

Dear Counsel:

Enclosed are the Bureau of Investigation and Enforcement's ("I&E") Supplemental Answers to the Interrogatories - Set III (Nos. 2, 3, & 5) of Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please contact the undersigned.

Sincerely,

Kayla L. Rost
Prosecutor
Bureau of Investigation & Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

cc: Per Certificate of Service

Secretary Rosemary Chiavetta (*Cover Letter & Certificate of Service only - via e-file*)
Hon. Christopher P. Pell, OALJ-Philadelphia (*Cover Letter & Certificate of Service only - via email*)
Athena Delvillar, OALJ Legal Assistant (*Cover Letter & Certificate of Service only - via email*)
Michael L. Swindler, Deputy Chief Prosecutor (*via email*)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

**SUPPLEMENTAL ANSWERS OF THE BUREAU OF
INVESTIGATION AND ENFORCEMENT
TO THE INTERROGATORIES - SET III (NOS. 2, 3, & 5) OF
WESTOVER PROPERTY MANAGEMENT COMPANY, L.P.
d/b/a WESTOVER COMPANIES**

Pursuant to Deputy Chief Administrative Law Judge Christopher Pell’s January 18, 2023 Interim Order, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its prosecuting attorneys, provides the within Supplemental Answers to the Interrogatories - Set III (Nos. 2, 3, & 5) of Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), directed to I&E.

2. Please Identify and describe all Communications between Scott Orr and UGI personnel at or regarding Woodland Plaza Apartments on November 15, 2022.

SUPPLEMENTAL ANSWER: Mr. Orr called UGI personnel twice to report a natural gas leak after smelling gas at Woodland Plaza Apartments on November 15, 2022. During the phone calls, Mr. Orr identified himself, identified the reasoning for the call, provided the address for Woodland Plaza, and inquired on who would be responding. After UGI personnel arrived at Woodland Plaza and tested the pipeline facilities, Mr. Orr confirmed with UGI personnel that the pipeline facilities were leaking and that more UGI personnel were enroute. UGI personnel advised Mr. Orr that UGI was going to test all pipeline facilities at Woodland Plaza Apartments and then would remediate the cause of the leak(s). UGI personnel advised Mr. Orr that multiple leaks were found at multiple apartment buildings at Woodland Plaza and later confirmed with Mr. Orr that the leaks were fixed. Westover's compliance with Act 127 and Part 192 of the applicable federal regulations was not discussed between Mr. Orr and UGI personnel.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 3

Set III Supplemental

3. a. What is a “Grade 3 Emergency?” Please provide a citation for this definition.
- b. What occurred at Woodland Plaza on November 15, 2022 that was a “Grade C Emergency”?

SUPPLEMENTAL ANSWER:

- a. Mr. Orr is unable to provide a definition for a “Grade 3 Emergency.” The terminology is based upon UGI’s internal procedure on the classification of leaks as required by 49 CFR § 192.605, which requires operators to create a manual of written procedures for maintenance activities and emergency response.
- b. Mr. Orr cannot answer the question as the classification and terminology of natural gas leaks is determined by UGI’s internal procedures.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 3

Set III Supplemental

5. Please explain why the Bureau of Investigation and Enforcement does not believe that Westover's gas facilities at the following apartment complexes are "master meter systems" as defined in 49 CFR § 191.3:

- a. Jamestown Village
- b. Caln East
- c. Southern Valley Townhomes
- d. Westover Village
- e. Victoria Crossing
- f. Newport Village
- g. Carlisle Park
- h. Galey Park
- i. Woodview
- j. Rolling Glen
- k. Rosetree Crossing
- l. Boothwyn Court

ORIGINAL ANSWER:

- a. I&E objected to this Interrogatory.
- b. I&E objected to this Interrogatory.
- c. I&E objected to this Interrogatory.
- d. I&E objected to this Interrogatory.

Set III Supplemental

- e. I&E objected to this Interrogatory.
- f. I&E objected to this Interrogatory.
- g. I&E believes that the gas facilities at Carlisle Park are master meter systems. See Westover’s Amended Petition for Declaratory Order, filed May 11, 2022, paragraph 66 (“The NGDC delivers gas to an apartment complex meter. Underground service lines then connect the meter to each building in the complex *seriatim*, and to each apartment. Residents use the gas for heating and cooking . . .”).
- h. I&E objected to this Interrogatory.
- i. I&E objected to this Interrogatory.
- j. I&E objected to this Interrogatory.
- k. I&E objected to this Interrogatory.
- l. I&E objected to this Interrogatory.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 3

SUPPLEMENTAL ANSWER:

- a. I&E withdraws its objection to this Interrogatory. I&E believes that the gas facilities at Jamestown Village are a master meter system. The Entech Engineering Report includes pictures of the Westover owned sub-meters which are located within each resident’s mechanical closet. The lease for

Set III Supplemental

Jamestown Village states that each apartment is sub-metered and that the utility service provider will bill the Owner (Westover) and then the resident portion will be allocated based on the actual meter reading.

- b. I&E objected to this Interrogatory.
- c. I&E objected to this Interrogatory.
- d. I&E objected to this Interrogatory.
- e. I&E objected to this Interrogatory.
- f. I&E objected to this Interrogatory.
- g. I&E believes that the gas facilities at Carlisle Park are master meter systems. See Westover's Amended Petition for Declaratory Order, filed May 11, 2022, paragraph 66 ("The NGDC delivers gas to an apartment complex meter. Underground service lines then connect the meter to each building in the complex *seriatim*, and to each apartment. Residents use the gas for heating and cooking . . .").
- h. I&E objected to this Interrogatory.
- i. I&E objected to this Interrogatory.
- j. I&E objected to this Interrogatory.
- k. I&E objected to this Interrogatory.
- l. I&E objected to this Interrogatory.

Response provided by: Scott Orr, Fixed Utility Valuation Engineer – 3

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

VERIFICATION

I, Scott Orr, Fixed Utility Valuation Engineer – 3, in the Bureau of Investigation and Enforcement’s Safety Division, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: February 7, 2023



Scott Orr
Fixed Utility Valuation Engineer – 3
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**


Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
Complainant	:	
	:	
v.	:	Docket Nos. C-2022-3030251
	:	P-2021-3030002
Westover Property Management Company,	:	
L.P. d/b/a Westover Companies	:	
Respondent	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Supplemental Answers of the Bureau of Investigation and Enforcement to the Interrogatories - Set III (Nos. 2, 3, & 5) of Westover Property Management Company, L.P. d/b/a Westover Companies**, 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 Only

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
*Counsel for Westover Property
Management Company, L.P.
d/b/a Westover Companies*



Kayla L. Rost
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 322768
(717) 787-1888
karost@pa.gov

Dated: February 7, 2023



Commonwealth of Pennsylvania
Pennsylvania Public Utility Commission
 Harrisburg, PA 17105-3265
EFILING - FILING DETAIL

Date Created	Filing Number
2/7/2023	2456042

Your filing has been electronically received. Upon review of the filing for conformity with the Commission's filing requirements, a notice will be issued acknowledging acceptance or rejection (with reason) of the filing. The matter will receive the attention of the Commission and you will be advised if any further action is required on your part.

The date filed on will be the current day if the filing occurs on a business day before or at 4:30 p.m. (EST). It will be the next business day if the filing occurs after 4:30 p.m. (EST) or on weekends or holidays.

Docket Number: C-2022-3030251
Case Description: P-2021-3030002
Transmission Date: 2/7/2023 3:00 PM
Filed On: 2/7/2023 3:00 PM
eFiling Confirmation Number: 2456042

File Name	Document Type	Upload Date
C-2022-3030251 (Westover) I&E Supplemental Answers to Westover Set III (nos 2, 3 & 5) CL&COS.pdf	Certificate of Service	2/7/2023 2:59:51 PM

For filings exceeding 250 pages, the PUC is requiring that filers submit one paper copy to the Secretary's Bureau within three business days of submitting the electronic filing online. Please mail the paper copy along with copy of this confirmation page to Secretary, Pennsylvania Public Utility Commission, 400 North Street, Harrisburg PA 17120 a copy of the filing confirmation page or reference the filing confirmation number on the first page of the paper copy.

No paper submission is necessary for filings under 250 pages.

You can view a record of this filing and previous filings you have submitted to the PUC by using the links in the Filings menu at the top of the page. Filings that have been submitted within the last 30 days can be viewed by using the Recent Filings link. Older filings can be viewed by using the search options available in the Filing History link.

WESTOVER EXHIBIT AS-11

JAMESTOWN VILLAGE'S JUNE 28, 2021 ACT 127 REGISTRATION



**Act 127
Pennsylvania Pipeline Operator Annual Registration Form**

Please submit completed form by March 31

Registration for Previous Calendar Year Ending: _____

Docket Number: _____

If you need help getting your docket number,

- Go to www.puc.pa.gov > Filing & Resources > Issues, Laws & Regulations > Act 127 (Pipeline Act).
- On the Act 127 page you will see a link on the lower section of the page under Pipeline Operators Registry.
- Click on the link to "View Current List of Registered Pipeline Operators."
- Click on the utility code next to your name; find the Docket Number (A-2012-xxxxxx) under the Docketed Cases.

1. Registrant (Full name of pipeline operator): Jamestown Village Apartments, LP

Comments: If applicable, explain any changes to your company name or legal status (acquisition, merger, etc.) in the past calendar year.

2. Types of Pipelines and/or Facilities.

Please note that natural gas public utilities are not required to file this form.

Pipelines and/or facilities covered by this form are associated with the following types of facilities and transport the following types of commodities: (select all that apply)

Gas Distribution

Natural Gas Propane Gas

Gas Transmission

Natural Gas
 Propane Gas
 Other Gas Define: _____

Gas Gathering

Hazardous Liquid
 Other Define: _____

3. Main Mailing Address:

Provide the address to which the Commission will serve all correspondence relating to this registration.

Street Address/P. O. Box: 550 AMERICAN AVE., SUITE 1
 City, State, Zip Code: KING OF PRUSSIA, PA 19406

4. Physical Address:

Provide the address of your primary Pennsylvania facility. This address is needed by the Commission to perform inspections and onsite visits. Do not provide a post office box number.

Street Address: 2501 Maryland Road
 City, State, Zip Code: Willow Grove, PA 19090

5. US DOT Operator ID Number:

Provide the number assigned to you by the United States Department of Transportation, Pipeline Hazardous and Materials Safety Administration (PHMSA).

6. PA L&I Propane Registration Number:

Provide your propane registration number with the Pennsylvania Department of Labor and Industry (if applicable). If you do not have a number, please enter "N/A".

7.	Regulatory Contact Information: <i>Complete in full with contact information of the person in your company the Commission can contact for questions and other matters pertaining to your registration and operations.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 337-3994
8.	Assessment Contact Information: <i>Complete in full with contact information of the person in your company who is responsible for receiving the Commission's assessment (billing) invoices and paying the assessment under Act 127.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 337-3994
9.	Federal EIN Number (if applicable): 26-3932172
10.	Pipeline Emergency (PEMA) Contact Information: <i>Complete in full with contact information of the person in your company who the Commission can call in an emergency situation. This information is critical to the Commission's interactions with the Pennsylvania Emergency Management Authority (PEMA).</i>
	Name: PETER QUERCETTI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: pquercetti@westovercompanies.com
	Telephone Number: (610) 337-3994
11.	Attorney (if applicable): <i>Complete this section only if an attorney is filing this registration form on your company's behalf.</i>
	Name: MARK D. DAMICO
	Street Address: 109 CHELSEY DRIVE - THE WILLIAM PENN BUILDING
	City, State, Zip Code: MEDIA, PA 19063
	Email Address:
	Telephone Number: (610) 563-0178
12.	Operational Information:
Comments: Report any newly installed pipeline, and explain any additions, deletions or variations since your previous year's registration.	

- Complete Attachments "A" and "B". For each Pennsylvania gas or hazardous liquids pipeline, provide the in-state mileage in operation as of December 31 of the prior year, by class and by county. Mileage should be reported for each individual pipe. Multiple pipelines in one trench are considered individual pipes for reporting purposes. If you have no miles to report on these attachments, check the appropriate block at the top of the form(s).
- Complete Attachment "C" by providing the country of manufacture and mileage data for all tubular steel products installed in the prior calendar year in Pennsylvania for the exploration, gathering or transmission of natural gas or hazardous liquids. If you have no data to report on this attachment, check the appropriate block at the top of the form.

13. Filing Fee:

The filing fee for this Annual Registration Form is \$250, payable to the "Commonwealth of Pennsylvania."

The filing fee can either be mailed or electronically paid when eFiling your form with the Commission's eFiling system.

NOTE: If you are a Propane Distributor registered with the PA L&I or a Borough, you are exempt from paying this filing fee.

Fee Exemptions (please indicate if either exemption applies):

Propane Distributor registered with PA L&I

Borough

14. Verification:

The person responsible (corporate officer or attorney) for filing your Annual Registration Form must affix his or her signature and verify that all information provided on the form is true to the best of his or her knowledge, information and belief. NOTE: Registration Forms that are not verified will not be accepted for filing.

I hereby state that the information in this application is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Name: *Alexander der Steffen Hr*

Signature: *[Handwritten Signature]*

Title: *CFO*

Date: *6/28/21*

15. Registration:

eFiling:

Registration Forms may be eFiled with the PUC. If eFiling your renewal form, go to <http://www.puc.pa.gov> and click on the eFiling link on the bottom of the page under Issues, News & Reports. Please choose "Existing Case" as the type of filing and enter your docket number where indicated.

By mail:

Send original, signed copy of registration form along with attachments and filing fee (if applicable) to:

Secretary, PA Public Utility Commission
Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Reminders:

- It is the responsibility of registrants to keep the Commission notified of any changes to your contact information by providing notice, in writing, to the Commission's Secretary at the above address.
- Incomplete registration forms or those missing any attachments are unacceptable for filing and will be delayed for processing until the required information is sent to the Commission's Secretary's Bureau. If you require assistance or have questions when completing this form, call 717-772-7777.
- Registrations are public records. Accordingly, DO NOT place social security numbers, credit card numbers, bank account numbers or other confidential information on the registration form.

*****PLEASE KEEP A COPY OF YOUR COMPLETED REGISTRATION FORM FOR YOUR RECORDS*****

Additional Comments: Use this section to add any additional information:

Attachment A

Hazardous Liquids Lines
Calendar Year Ending:
Pipeline Operator: Jamestown Village Apartments, LP

Please check here if you have no reportable Hazardous Liquids Lines

Please report mileage to the nearest 1/10th of a mile.

HCA = High Consequence Area

County	Intrastate		Interstate		Total
	Non-HCA	HCA	Non-HCA	HCA	
Adams					0.0
Allegheny					0.0
Armstrong					0.0
Beaver					0.0
Bedford					0.0
Berks					0.0
Blair					0.0
Bradford					0.0
Bucks					0.0
Butler					0.0
Cambria					0.0
Cameron					0.0
Carbon					0.0
Centre					0.0
Chester					0.0
Clarion					0.0
Clearfield					0.0
Clinton					0.0
Columbia					0.0
Crawford					0.0
Cumberland					0.0
Dauphin					0.0
Delaware					0.0
Elk					0.0
Erie					0.0
Fayette					0.0
Forest					0.0
Franklin					0.0
Fulton					0.0
Greene					0.0
Huntingdon					0.0
Indiana					0.0
Jefferson					0.0
Juniata					0.0
Lackawanna					0.0
Lancaster					0.0
Lawrence					0.0
Lebanon					0.0
Lehigh					0.0
Luzerne					0.0
Lycoming					0.0
McKean					0.0
Mercer					0.0
Mifflin					0.0
Monroe					0.0
Montgomery					0.0

Montour					0.0
Northampton					0.0
Northumberland					0.0
Perry					0.0
Philadelphia					0.0
Pike					0.0
Potter					0.0
Schuylkill					0.0
Snyder					0.0
Somerset					0.0
Sullivan					0.0
Susquehanna					0.0
Tioga					0.0
Union					0.0
Venango					0.0
Warren					0.0
Washington					0.0
Wayne					0.0
Westmoreland					0.0
Wyoming					0.0
York					0.0
Total	0.0	0.0	0.0	0.0	0.0

Attachment B

Mileage
 Calendar Year Ending:
 Pipeline Operator: Jamestown Village Apartments, LP

Please check here if you have no miles to report

Act 127 mileage reporting for this form should not include any pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

Please report mileage to the nearest 1/10th of a mile.

County	Number of Farm Taps	Class 1 Gathering (Conventional)	Class 1 Gathering (Unconventional)	Class 1 Transmission & Distribution	Gathering, Transmission & Distribution				Total Class 1 T&D + Class 2+3+4 G,T&D
					Class 2 Gathering Transmission & Distribution	Class 3 Gathering Transmission & Distribution	Class 4 Gathering Transmission & Distribution		
Adams								0.0	
Allegheny								0.0	
Armstrong								0.0	
Beaver								0.0	
Bedford								0.0	
Berks								0.0	
Blair								0.0	
Bradford								0.0	
Bucks								0.0	
Butler								0.0	
Cambria								0.0	
Cameron								0.0	
Carbon								0.0	
Centre								0.0	
Chester								0.0	
Clarion								0.0	
Clearfield								0.0	
Clinton								0.0	
Columbia								0.0	
Crawford								0.0	
Cumberland								0.0	
Dauphin								0.0	
Delaware								0.0	
Elk								0.0	
Erie								0.0	
Fayette								0.0	
Forest								0.0	
Franklin								0.0	
Fulton								0.0	
Greene								0.0	
Huntingdon								0.0	
Indiana								0.0	
Jefferson								0.0	
Juniata								0.0	
Lackawanna								0.0	
Lancaster								0.0	
Lawrence								0.0	
Lebanon								0.0	
Lehigh								0.0	
Luzerne								0.0	
Lycoming								0.0	

McKean								0.0
Mercer								0.0
Mifflin								0.0
Monroe								0.0
Montgomery								0.0
Montour								0.0
Northampton								0.0
Northumberland								0.0
Perry								0.0
Philadelphia								0.0
Pike								0.0
Potter								0.0
Schuylkill								0.0
Snyder								0.0
Somerset								0.0
Sullivan								0.0
Susquehanna								0.0
Tioga								0.0
Union								0.0
Venango								0.0
Warren								0.0
Washington								0.0
Wayne								0.0
Westmoreland								0.0
Wyoming								0.0
York								0.0
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

WESTOVER EXHIBIT AS-12

AUGUST 19, 2021 CORRESPONDENCE WITHDRAWING

JAMESTOWN VILLAGE'S ACT 127 REGISTRATION



August 19, 2021

Pennsylvania Public Utility Commission
Bureau of Technical Utility Services

To whom it may concern.

Please cancel the registration of Jamestown Village Apartments at Docket No. A-2021-3027219.

Thanks

A handwritten signature in black ink that reads "Alexander Stefanelli". The signature is written in a cursive, flowing style.

Alexander Stefanelli
CFO

WESTOVER EXHIBIT AS-13

AUGUST 30, 2021 SECRETARIAL LETTER CANCELLING

JAMESTOWN VILLAGE'S ACT 127 REGISTRATION



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

IN REPLY, PLEASE
REFER TO OUR FILE

August 30, 2021

Docket No: A-2021-3027219
Utility Code: 1724342

ALEXANDER STEFANELLI CFO
JAMESTOWN VILLAGE APT LP
550 AMERICAN AVE STE 1
KING OF PRUSSIA PA 19406
cfo@westovercompanies.com

RE: Act 127 Registration Cancellation

Dear Mr. Stefanelli:

This letter serves to acknowledge your notification to the Commission of your request to cancel the Act 127 registration of Jamestown Village Apartments, LP (Jamestown Village). Jamestown Village had reported zero pipeline assets pursuant to Act 127, there are no pipeline assets that must be accounted for; thus, the Commission will remove Jamestown Village from its Registry.

The Commission reminds Jamestown Village that if it were to acquire any jurisdictional assets in the future, it must file an Initial Registration Form with the Commission in order to comply with the mandates of Act 127.

Please direct any questions to Lee Yalcin, Financial Analyst, Technical Utility Services at email lyalcin@pa.gov (preferred) or (717) 787-6723.

Sincerely,

A handwritten signature in black ink that reads "Rosemary Chiavetta". The signature is written in a cursive style with a large, prominent initial "R".

Rosemary Chiavetta
Secretary

Cc: Shirley Spunaugle, Secretary's Bureau
Amy Zuvich, Bureau of Administration, Financial and Assessments

WESTOVER EXHIBIT AS-14

WESTOVER'S AUGUST 6, 2021 ACT 127 REGISTRATION



**Act 127
Pennsylvania Pipeline Operator Annual Registration Form**

Please submit completed form by March 31

Registration for Previous Calendar Year Ending:

Docket Number:

If you need help getting your docket number,

- Go to www.puc.pa.gov > Filing & Resources > Issues, Laws & Regulations > Act 127 (Pipeline Act).
- On the Act 127 page you will see a link on the lower section of the page under Pipeline Operators Registry.
- Click on the link to "View Current List of Registered Pipeline Operators."
- Click on the utility code next to your name; find the Docket Number (A-2012-xxxxxx) under the Docketed Cases.

1. Registrant (Full name of pipeline operator): The Westover Companies

Comments: If applicable, explain any changes to your company name or legal status (acquisition, merger, etc.) in the past calendar year.

Filed as Jamestown Village Apartments LP. Talking to Scott Orr, he recommended refilling using top entity

2. Types of Pipelines and/or Facilities.

Please note that natural gas public utilities are not required to file this form.

Pipelines and/or facilities covered by this form are associated with the following types of facilities and transport the following types of commodities: (select all that apply)

Gas Distribution

Natural Gas Propane Gas

Gas Transmission

Natural Gas
Propane Gas
Other Gas Define:

Gas Gathering

Hazardous Liquid
Other Define:

3. Main Mailing Address:

Provide the address to which the Commission will serve all correspondence relating to this registration.

Street Address/P. O. Box: 550 AMERICAN AVE., SUITE 1

City, State, Zip Code: KING OF PRUSSIA, PA 19406

4. Physical Address:

Provide the address of your primary Pennsylvania facility. This address is needed by the Commission to perform inspections and onsite visits.

Do not provide a post office box number.

Street Address: see attached *Exhibit D*

City, State, Zip Code:

5. US DOT Operator ID Number:

Provide the number assigned to you by the United States Department of Transportation, Pipeline Hazardous and Materials Safety Administration (PHMSA).

6. PA L&I Propane Registration Number:

Provide your propane registration number with the Pennsylvania Department of Labor and Industry (if applicable). If you do not have a number, please enter "N/A".

7.	Regulatory Contact Information: <i>Complete in full with contact information of the person in your company the Commission can contact for questions and other matters pertaining to your registration and operations.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
8.	Assessment Contact Information: <i>Complete in full with contact information of the person in your company who is responsible for receiving the Commission's assessment (billing) invoices and paying the assessment under Act 127.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
9.	Federal EIN Number (if applicable):
10.	Pipeline Emergency (PEMA) Contact Information: <i>Complete in full with contact information of the person in your company who the Commission can call in an emergency situation. This information is critical to the Commission's interactions with the Pennsylvania Emergency Management Authority (PEMA).</i>
	Name: PETER QUERCETTI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: pquercetti@westovercompanies.com
	Telephone Number: (302) 388-3569
11.	Attorney (if applicable): <i>Complete this section only if an attorney is filing this registration form on your company's behalf.</i>
	Name: MARK D. DAMICO
	Street Address: 109 CHELSEY DRIVE - THE WILLIAM PENN BUILDING
	City, State, Zip Code: MEDIA, PA 19063
	Email Address:
	Telephone Number: (610) 563-0178
12.	Operational Information:
Comments: Report any newly installed pipeline, and explain any additions, deletions or variations since your previous year's registration.	

- Complete Attachments "A" and "B". For each Pennsylvania gas or hazardous liquids pipeline, provide the in-state mileage in operation as of December 31 of the prior year, by class and by county. Mileage should be reported for each individual pipe. Multiple pipelines in one trench are considered individual pipes for reporting purposes. If you have no miles to report on these attachments, check the appropriate block at the top of the form(s).
- Complete Attachment "C" by providing the country of manufacture and mileage data for all tubular steel products installed in the prior calendar year in Pennsylvania for the exploration, gathering or transmission of natural gas or hazardous liquids. If you have no data to report on this attachment, check the appropriate block at the top of the form.

13. Filing Fee:

The filing fee for this Annual Registration Form is \$250, payable to the "Commonwealth of Pennsylvania."

The filing fee can either be mailed or electronically paid when eFiling your form with the Commission's eFiling system.

NOTE: If you are a Propane Distributor registered with the PA L&I or a Borough, you are exempt from paying this filing fee.

Fee Exemptions (please indicate if either exemption applies):

Propane Distributor registered with PA L&I

Borough

14. Verification:

The person responsible (corporate officer or attorney) for filing your Annual Registration Form must affix his or her signature and verify that all information provided on the form is true to the best of his or her knowledge, information and belief. NOTE: Registration Forms that are not verified will not be accepted for filing.

I hereby state that the information in this application is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Name: Alexander Steinhilber

Signature: [Handwritten Signature]

Title: CFO

Date: 8/6/21

15. Registration:

eFiling:

Registration Forms may be eFiled with the PUC. If eFiling your renewal form, go to <http://www.puc.pa.gov> and click on the eFiling link on the bottom of the page under Issues, News & Reports. Please choose "Existing Case" as the type of filing and enter your docket number where indicated.

By mail:

Send original, signed copy of registration form along with attachments and filing fee (if applicable) to:

Secretary, PA Public Utility Commission
Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Reminders:

- It is the responsibility of registrants to keep the Commission notified of any changes to your contact information by providing notice, in writing, to the Commission's Secretary at the above address.
- Incomplete registration forms or those missing any attachments are unacceptable for filing and will be delayed for processing until the required information is sent to the Commission's Secretary's Bureau. If you require assistance or have questions when completing this form, call 717-772-7777.
- Registrations are public records. Accordingly, DO NOT place social security numbers, credit card numbers, bank account numbers or other confidential information on the registration form.

*****PLEASE KEEP A COPY OF YOUR COMPLETED REGISTRATION FORM FOR YOUR RECORDS*****

Additional Comments: Use this section to add any additional information:

Attachment A

Hazardous Liquids Lines
Calendar Year Ending:
Pipeline Operator: The Westover Companies

Please check here if you have no reportable Hazardous Liquids Lines

Please report mileage to the nearest 1/10th of a mile.

HCA = High Consequence Area

County	Intrastate		Interstate		Total
	Non-HCA	HCA	Non-HCA	HCA	
Adams					0.0
Allegheny					0.0
Armstrong					0.0
Beaver					0.0
Bedford					0.0
Berks	0.4				0.4
Blair					0.0
Bradford					0.0
Bucks	0.4				0.4
Butler					0.0
Cambria					0.0
Cameron					0.0
Carbon					0.0
Centre					0.0
Chester	0.4				0.4
Clarion					0.0
Clearfield					0.0
Clinton					0.0
Columbia					0.0
Crawford					0.0
Cumberland	0.4				0.4
Dauphin					0.0
Delaware	0.9				0.9
Elk					0.0
Erie					0.0
Fayette					0.0
Forest					0.0
Franklin					0.0
Fulton					0.0
Greene					0.0
Huntingdon					0.0
Indiana					0.0
Jefferson					0.0
Juniata					0.0
Lackawanna					0.0
Lancaster					0.0
Lawrence					0.0
Lebanon					0.0
Lehigh					0.0
Luzerne					0.0
Lycoming					0.0
McKean					0.0
Mercer					0.0
Mifflin					0.0
Monroe					0.0
Montgomery	1.1				1.1

Montour					0.0
Northampton					0.0
Northumberland					0.0
Perry					0.0
Philadelphia					0.0
Pike					0.0
Potter					0.0
Schuylkill					0.0
Snyder					0.0
Somerset					0.0
Sullivan					0.0
Susquehanna					0.0
Tioga					0.0
Union					0.0
Venango					0.0
Warren					0.0
Washington					0.0
Wayne					0.0
Westmoreland					0.0
Wyoming					0.0
York					0.0
Total	3.6	0.0	0.0	0.0	3.6

Attachment B

Mileage
 Calendar Year Ending:
 Pipeline Operator: The Westover Companies

Please check here if you have no miles to report

Act 127 mileage reporting for this form should not include any pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

Please report mileage to the nearest 1/10th of a mile.

County	Number of Farm Taps	Class 1 Gathering (Conventional)	Class 1 Gathering (Unconventional)	Gathering, Transmission & Distribution				
				Class 1 Transmission & Distribution	Class 2 Gathering Transmission & Distribution	Class 3 Gathering Transmission & Distribution	Class 4 Gathering Transmission & Distribution	Total Class 1 T&D + Class 2+3+4 G,T&D
Adams								0.0
Allegheny								0.0
Armstrong								0.0
Beaver								0.0
Bedford								0.0
Berks				0.4				0.4
Blair								0.0
Bradford								0.0
Bucks				0.4				0.4
Butler								0.0
Cambria								0.0
Cameron								0.0
Carbon								0.0
Centre								0.0
Chester				0.4				0.4
Clarion								0.0
Clearfield								0.0
Clinton								0.0
Columbia								0.0
Crawford								0.0
Cumberland					0.4			0.4
Dauphin								0.0
Delaware				0.9				0.9
Elk								0.0
Erie								0.0
Fayette								0.0
Forest								0.0
Franklin								0.0
Fulton								0.0
Greene								0.0
Huntingdon								0.0
Indiana								0.0
Jefferson								0.0
Juniata								0.0
Lackawanna								0.0
Lancaster								0.0
Lawrence								0.0
Lebanon								0.0
Lehigh								0.0
Luzerne								0.0
Lycoming								0.0

McKean								0.0
Mercer								0.0
Mifflin								0.0
Monroe								0.0
Montgomery				0.2	0.9			1.1
Montour								0.0
Northampton								0.0
Northumberland								0.0
Perry								0.0
Philadelphia								0.0
Pike								0.0
Potter								0.0
Schuylkill								0.0
Snyder								0.0
Somerset								0.0
Sullivan								0.0
Susquehanna								0.0
Tioga								0.0
Union								0.0
Venango								0.0
Warren								0.0
Washington								0.0
Wayne								0.0
Westmoreland								0.0
Wyoming								0.0
York								0.0
Total	0.0	0.0	0.0	2.3	1.3	0.0	0.0	3.6

Primary	Heating Type	PUC	Address	City State Zip	County	Units	Zip
<u>Carlisle Park</u>	Gas	Y	525 Third Street	Carlisle, PA 17013	Cumberland County	208	17013
<u>Gladstone Towers</u>	Gas	Y	223 Scottdale Road	Lansdowne, PA 19050	Delaware County	121	19050
<u>Hillcrest</u>	Gas	Y	785 W. Providence Road	Lansdowne, PA 19050	Delaware County	84	19050
<u>Lansdowne Towers</u>	Gas	Y	772 E. Providence Road	Aldan, PA 19018	Delaware County	231	19018
<u>Main Line Berwyn</u>	Gas	Y	750 Old Lancaster Road	Berwyn, PA 19312	Chester Count	180	19312
<u>Mill Creek</u>	Gas	Y	255 E. Lincoln Highway	Penndel, PA 19407	Bucks County	174	19407
<u>Norriton East</u>	Gas	Y	2620 Dekalb Pike	East Norriton, PA 19401	Montgomery County	68	19401
<u>Oak Forest</u>	Gas	Y	2220 Alsace Road	Reading, PA 19604	Berks County	143	19604
<u>Park Court</u>	Gas	Y	28 S. Water Street	Womelsdorf, PA 19567	Berks County	66	19567
<u>Valley Stream</u>	Gas	Y	2100 N. Line Street	Lansdale, PA 19446	Montgomery County	242	19446
<u>Willow Run</u>	Gas	Y	3505 Moreland Road, # E-521	Willow Grove, PA 19090	Montgomery County	172	19090
						1689	

Eth D

Primary

Property Type

Natural Gas

Address

City State Zip

SQ FT

Bryn Mawr Medical Building

Commercial

600 & 931 Haverford Road,

Haverford, PA 19041

82096

Exh D

WESTOVER EXHIBIT AS-15

WESTOVER'S SEPTEMBER 17, 2021 ACT 127 REGISTRATION



September 17, 2021

Via Electronic Submission Only

PAPUC
400 North Street
Harrisburg PA 17120

Regarding: Docket A-2021-3028141

To whom it may concern.

The attached transmission is to correct our previous ACT 127.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alexander Stefanelli".

Alexander Stefanelli
CFO



**Act 127
Pennsylvania Pipeline Operator Annual Registration Form**

Please submit completed form by March 31

Registration for Previous Calendar Year Ending: 2021
Docket Number: A-2021-3028141

If you need help getting your docket number,

- Go to www.puc.pa.gov > Filing & Resources > Issues, Laws & Regulations > Act 127 (Pipeline Act).
- On the Act 127 page you will see a link on the lower section of the page under Pipeline Operators Registry.
- Click on the link to "View Current List of Registered Pipeline Operators."
- Click on the utility code next to your name; find the Docket Number (A-2012-xxxxxx) under the Docketed Cases.

1. Registrant (Full name of pipeline operator): The Westover Companies

Comments: If applicable, explain any changes to your company name or legal status (acquisition, merger, etc.) in the past calendar year.

2. Types of Pipelines and/or Facilities.

Please note that natural gas public utilities are not required to file this form.

Pipelines and/or facilities covered by this form are associated with the following types of facilities and transport the following types of commodities: (select all that apply)

Gas Distribution

Natural Gas Propane Gas

Gas Transmission

Natural Gas
 Propane Gas
 Other Gas Define:

Gas Gathering

Hazardous Liquid
 Other Define:

3. Main Mailing Address:

Provide the address to which the Commission will serve all correspondence relating to this registration.

Street Address/P. O. Box: 550 AMERICAN AVE., SUITE 1
 City, State, Zip Code: KING OF PRUSSIA, PA 19406

4. Physical Address:

Provide the address of your primary Pennsylvania facility. This address is needed by the Commission to perform inspections and onsite visits. Do not provide a post office box number.

Street Address: see attached
 City, State, Zip Code:

5. US DOT Operator ID Number:

Provide the number assigned to you by the United States Department of Transportation, Pipeline Hazardous and Materials Safety Administration (PHMSA).

6. PA L&I Propane Registration Number:

Provide your propane registration number with the Pennsylvania Department of Labor and Industry (if applicable). If you do not have a number, please enter "N/A".

7.	Regulatory Contact Information: <i>Complete in full with contact information of the person in your company the Commission can contact for questions and other matters pertaining to your registration and operations.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
8.	Assessment Contact Information: <i>Complete in full with contact information of the person in your company who is responsible for receiving the Commission's assessment (billing) invoices and paying the assessment under Act 127.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
9.	Federal EIN Number (if applicable):
10.	Pipeline Emergency (PEMA) Contact Information: <i>Complete in full with contact information of the person in your company who the Commission can call in an emergency situation. This information is critical to the Commission's interactions with the Pennsylvania Emergency Management Authority (PEMA).</i>
	Name: PETER QUERCETTI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: pquercetti@westovercompanies.com
	Telephone Number: (302) 388-3569
11.	Attorney (if applicable): <i>Complete this section only if an attorney is filing this registration form on your company's behalf.</i>
	Name: MARK D. DAMICO
	Street Address: 109 CHELSEY DRIVE - THE WILLIAM PENN BUILDING
	City, State, Zip Code: MEDIA, PA 19063
	Email Address:
	Telephone Number: (610) 563-0178
12.	Operational Information:
Comments: Report any newly installed pipeline, and explain any additions, deletions or variations since your previous year's registration.	

- Complete Attachments "A" and "B". For each Pennsylvania gas or hazardous liquids pipeline, provide the in-state mileage in operation as of December 31 of the prior year, by class and by county. Mileage should be reported for each individual pipe. Multiple pipelines in one trench are considered individual pipes for reporting purposes. If you have no miles to report on these attachments, check the appropriate block at the top of the form(s).
- Complete Attachment "C" by providing the country of manufacture and mileage data for all tubular steel products installed in the prior calendar year in Pennsylvania for the exploration, gathering or transmission of natural gas or hazardous liquids. If you have no data to report on this attachment, check the appropriate block at the top of the form.


13. Filing Fee:
The filing fee for this Annual Registration Form is \$250, payable to the "Commonwealth of Pennsylvania."
 The filing fee can either be mailed or electronically paid when eFiling your form with the Commission's eFiling system.
NOTE: If you are a Propane Distributor registered with the PA L&I or a Borough, you are exempt from paying this filing fee.

Fee Exemptions (please indicate if either exemption applies):

Propane Distributor registered with PA L&I	<input type="checkbox"/>
Borough	<input type="checkbox"/>

14. Verification:
The person responsible (corporate officer or attorney) for filing your Annual Registration Form must affix his or her signature and verify that all information provided on the form is true to the best of his or her knowledge, information and belief. NOTE: Registration Forms that are not verified will not be accepted for filing.

I hereby state that the information in this application is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Name: Alexander Stefanelli	Signature: 
Title: CFO	Date: 9/17/2021

15. Registration:
eFiling:
 Registration Forms may be eFiled with the PUC. If eFiling your renewal form, go to <http://www.puc.pa.gov> and click on the eFiling link on the bottom of the page under Issues, News & Reports. Please choose "Existing Case" as the type of filing and enter your docket number where indicated.

By mail:
 Send original, signed copy of registration form along with attachments and filing fee (if applicable) to:
 Secretary, PA Public Utility Commission
 Keystone Building, 2nd Floor
 400 North Street
 Harrisburg, PA 17120

- Reminders:**
- It is the responsibility of registrants to keep the Commission notified of any changes to your contact information by providing notice, in writing, to the Commission's Secretary at the above address.
 - Incomplete registration forms or those missing any attachments are unacceptable for filing and will be delayed for processing until the required information is sent to the Commission's Secretary's Bureau. If you require assistance or have questions when completing this form, call 717-772-7777.
 - Registrations are public records. Accordingly, DO NOT place social security numbers, credit card numbers, bank account numbers or other confidential information on the registration form.

*****PLEASE KEEP A COPY OF YOUR COMPLETED REGISTRATION FORM FOR YOUR RECORDS*****

Additional Comments: Use this section to add any additional information:

Attachment A

Hazardous Liquids Lines
Calendar Year Ending: 2021
Pipeline Operator: The Westover Companies

Please check here if you have no reportable Hazardous Liquids Lines

Please report mileage to the nearest 1/10th of a mile.

HCA = High Consequence Area

County	Intrastate		Interstate		Total
	Non-HCA	HCA	Non-HCA	HCA	
Adams					0.0
Allegheny					0.0
Armstrong					0.0
Beaver					0.0
Bedford					0.0
Berks					0.0
Blair					0.0
Bradford					0.0
Bucks					0.0
Butler					0.0
Cambria					0.0
Cameron					0.0
Carbon					0.0
Centre					0.0
Chester					0.0
Clarion					0.0
Clearfield					0.0
Clinton					0.0
Columbia					0.0
Crawford					0.0
Cumberland					0.0
Dauphin					0.0
Delaware					0.0
Elk					0.0
Erie					0.0
Fayette					0.0
Forest					0.0
Franklin					0.0
Fulton					0.0
Greene					0.0
Huntingdon					0.0
Indiana					0.0
Jefferson					0.0
Juniata					0.0
Lackawanna					0.0
Lancaster					0.0
Lawrence					0.0
Lebanon					0.0
Lehigh					0.0
Luzerne					0.0
Lycoming					0.0
McKean					0.0
Mercer					0.0
Mifflin					0.0
Monroe					0.0
Montgomery					0.0

Montour					0.0
Northampton					0.0
Northumberland					0.0
Perry					0.0
Philadelphia					0.0
Pike					0.0
Potter					0.0
Schuylkill					0.0
Snyder					0.0
Somerset					0.0
Sullivan					0.0
Susquehanna					0.0
Tioga					0.0
Union					0.0
Venango					0.0
Warren					0.0
Washington					0.0
Wayne					0.0
Westmoreland					0.0
Wyoming					0.0
York					0.0
Total	0.0	0.0	0.0	0.0	0.0

Attachment B

Mileage
Calendar Year Ending: 2021
Pipeline Operator: The Westover Companies

Please check here if you have no miles to report

Act 127 mileage reporting for this form should not include any pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

Please report mileage to the nearest 1/10th of a mile.

County	Number of Farm Taps	Class 1 Gathering (Conventional)	Class 1 Gathering (Unconventional)	Class 1 Transmission & Distribution	Gathering, Transmission & Distribution				Total Class 1 T&D + Class 2+3+4 G,T&D
					Class 2 Gathering Transmission & Distribution	Class 3 Gathering Transmission & Distribution	Class 4 Gathering Transmission & Distribution		
Adams									0.0
Allegheny									0.0
Armstrong									0.0
Beaver									0.0
Bedford									0.0
Berks						0.4			0.4
Blair									0.0
Bradford									0.0
Bucks						0.4			0.4
Butler									0.0
Cambria									0.0
Cameron									0.0
Carbon									0.0
Centre									0.0
Chester						0.4			0.4
Clarion									0.0
Clearfield									0.0
Clinton									0.0
Columbia									0.0
Crawford									0.0
Cumberland						0.4			0.4
Dauphin									0.0
Delaware						0.9			0.9
Elk									0.0
Erie									0.0
Fayette									0.0
Forest									0.0
Franklin									0.0
Fulton									0.0
Greene									0.0
Huntingdon									0.0
Indiana									0.0
Jefferson									0.0
Juniata									0.0
Lackawanna									0.0
Lancaster									0.0
Lawrence									0.0
Lebanon									0.0
Lehigh									0.0
Luzerne									0.0
Lycoming									0.0

McKean								0.0
Mercer								0.0
Mifflin								0.0
Monroe								0.0
Montgomery						1.1		1.1
Montour								0.0
Northampton								0.0
Northumberland								0.0
Perry								0.0
Philadelphia								0.0
Pike								0.0
Potter								0.0
Schuylkill								0.0
Snyder								0.0
Somerset								0.0
Sullivan								0.0
Susquehanna								0.0
Tioga								0.0
Union								0.0
Venango								0.0
Warren								0.0
Washington								0.0
Wayne								0.0
Westmoreland								0.0
Wyoming								0.0
York								0.0
Total	0.0	0.0	0.0	0.0	0.0	3.6	0.0	3.6

<u>Primary</u>	<u>Heating Type</u>	<u>PUC</u>	<u>Address</u>	<u>City State Zip</u>	<u>County</u>	<u>Units</u>	<u>Zip</u>
<u>Carlisle Park</u>	Gas	Y	525 Third Street	Carlisle, PA 17013	Cumberland County	208	17013
<u>Gladstone Towers</u>	Gas	Y	223 Scottdale Road	Lansdowne, PA 19050	Delaware County	121	19050
<u>Hillcrest</u>	Gas	Y	785 W. Providence Road	Lansdowne, PA 19050	Delaware County	84	19050
<u>Lansdowne Towers</u>	Gas	Y	772 E. Providence Road	Aldan, PA 19018	Delaware County	231	19018
<u>Main Line Berwyn</u>	Gas	Y	750 Old Lancaster Road	Berwyn, PA 19312	Chester Count	180	19312
<u>Mill Creek</u>	Gas	Y	255 E. Lincoln Highway	Penndel, PA 19407	Bucks County	174	19407
<u>Norriton East</u>	Gas	Y	2620 Dekalb Pike	East Norriton, PA 19401	Montgomery County	68	19401
<u>Oak Forest</u>	Gas	Y	2220 Alsace Road	Reading, PA 19604	Berks County	143	19604
<u>Park Court</u>	Gas	Y	28 S. Water Street	Womelsdorf, PA 19567	Berks County	66	19567
<u>Valley Stream</u>	Gas	Y	2100 N. Line Street	Lansdale, PA 19446	Montgomery County	242	19446
<u>Willow Run</u>	Gas	Y	3505 Moreland Road, # E-521	Willow Grove, PA 19090	Montgomery County	172	19090
						1688	

Ech D

Primary

Property Type

Natural Gas

Address

City State Zip

SQ FT

Bryn Mawr Medical Building

Commercial

600 & 931 Haverford Road,

Haverford, PA 19041

82096

EX 1
D

WESTOVER EXHIBIT AS-16

WESTOVER'S FEBRUARY 22, 2022 ACT 127 REGISTRATION



February 22, 2022

Via Electronic Submission Only

PAPUC
400 North Street
Harrisburg PA 17120

Regarding: Docket A-2021-3028141

To whom it may concern.

The attached transmission and filing fee are paid under protest based on the on-going proceedings at Docket Nos. P- 2021-3030002 and C-2022-3030251, in which we contend that we do not need to register pursuant to Act 127.

Sincerely,

Alexander Stefanelli
CFO

CC: Zambito, David DZambito@cozen.com
Nase, Jonathan JNase@cozen.com
Peter Quercetti



Act 127
Pennsylvania Pipeline Operator Annual Registration Form

Please submit completed form by March 31

Registration for Previous Calendar Year Ending: December 31, 2021

Docket Number: A-2021-3028141

If you need help getting your docket number,

- Go to www.puc.pa.gov > Filing & Resources > Issues, Laws & Regulations > Act 127 (Pipeline Act).
- On the Act 127 page you will see a link on the lower section of the page under Pipeline Operators Registry.
- Click on the link to "View Current List of Registered Pipeline Operators."
- Click on the utility code next to your name; find the Docket Number (A-2012-xxxxxx) under the Docketed Cases.

1. Registrant (Full name of pipeline operator): The Westover Companies

Comments: If applicable, explain any changes to your company name or legal status (acquisition, merger, etc.) in the past calendar year.

2. Types of Pipelines and/or Facilities.

Please note that natural gas public utilities are not required to file this form.

Pipelines and/or facilities covered by this form are associated with the following types of facilities and transport the following types of commodities: (select all that apply)

Gas Distribution

Natural Gas Propane Gas

Gas Transmission

Natural Gas
Propane Gas
Other Gas Define:

Gas Gathering

Hazardous Liquid
Other Define:

3. Main Mailing Address:

Provide the address to which the Commission will serve all correspondence relating to this registration.

Street Address/P. O. Box: 550 AMERICAN AVE., SUITE 1

City, State, Zip Code: KING OF PRUSSIA, PA 19406

4. Physical Address:

Provide the address of your primary Pennsylvania facility. This address is needed by the Commission to perform inspections and onsite visits.

Do not provide a post office box number.

Street Address: see attached Exhibit D

City, State, Zip Code:

5. US DOT Operator ID Number:

Provide the number assigned to you by the United States Department of Transportation, Pipeline Hazardous and Materials Safety Administration (PHMSA).

40293

6. PA L&I Propane Registration Number:

Provide your propane registration number with the Pennsylvania Department of Labor and Industry (if applicable). If you do not have a number, please enter "N/A".

7.	Regulatory Contact Information: <i>Complete in full with contact information of the person in your company the Commission can contact for questions and other matters pertaining to your registration and operations.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
8.	Assessment Contact Information: <i>Complete in full with contact information of the person in your company who is responsible for receiving the Commission's assessment (billing) invoices and paying the assessment under Act 127.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
9.	Federal EIN Number (if applicable):
10.	Pipeline Emergency (PEMA) Contact Information: <i>Complete in full with contact information of the person in your company who the Commission can call in an emergency situation. This information is critical to the Commission's interactions with the Pennsylvania Emergency Management Authority (PEMA).</i>
	Name: PETER QUERCETTI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: pquercetti@westovercompanies.com
	Telephone Number: (302) 388-3569
11.	Attorney (if applicable): <i>Complete this section only if an attorney is filing this registration form on your company's behalf.</i>
	Name:
	Street Address:
	City, State, Zip Code:
	Email Address:
	Telephone Number:
12.	Operational Information:
Comments: Report any newly installed pipeline, and explain any additions, deletions or variations since your previous year's registration.	

- Complete Attachments "A" and "B". For each Pennsylvania gas or hazardous liquids pipeline, provide the in-state mileage in operation as of December 31 of the prior year, by class and by county. Mileage should be reported for each individual pipe. Multiple pipelines in one trench are considered individual pipes for reporting purposes. If you have no miles to report on these attachments, check the appropriate block at the top of the form(s).
- Complete Attachment "C" by providing the country of manufacture and mileage data for all tubular steel products installed in the prior calendar year in Pennsylvania for the exploration, gathering or transmission of natural gas or hazardous liquids. If you have no data to report on this attachment, check the appropriate block at the top of the form.

13. Filing Fee:

The filing fee for this Annual Registration Form is \$250, payable to the "Commonwealth of Pennsylvania."

The filing fee can either be mailed or electronically paid when eFiling your form with the Commission's eFiling system.

NOTE: If you are a Propane Distributor registered with the PA L&I or a Borough, you are exempt from paying this filing fee.

Fee Exemptions (please indicate if either exemption applies):

Propane Distributor registered with PA L&I

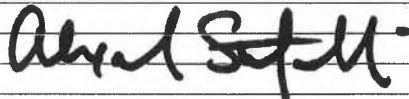
Borough

14. Verification:

The person responsible (corporate officer or attorney) for filing your Annual Registration Form must affix his or her signature and verify that all information provided on the form is true to the best of his or her knowledge, information and belief. NOTE: Registration Forms that are not verified will not be accepted for filing.

I hereby state that the information in this application is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Name:
Alexander Stefanelli

Signature:


Title:
CFO

Date:
2/22/2022

15. Registration:

eFiling:

Registration Forms may be eFiled with the PUC. If eFiling your renewal form, go to <http://www.puc.pa.gov> and click on the eFiling link on the bottom of the page under Issues, News & Reports. Please choose "Existing Case" as the type of filing and enter your docket number where indicated.

By mail:

Send original, signed copy of registration form along with attachments and filing fee (if applicable) to:

Secretary, PA Public Utility Commission
Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Reminders:

- It is the responsibility of registrants to keep the Commission notified of any changes to your contact information by providing notice, in writing, to the Commission's Secretary at the above address.
- Incomplete registration forms or those missing any attachments are unacceptable for filing and will be delayed for processing until the required information is sent to the Commission's Secretary's Bureau. If you require assistance or have questions when completing this form, call 717-772-7777.
- Registrations are public records. Accordingly, DO NOT place social security numbers, credit card numbers, bank account numbers or other confidential information on the registration form.

*****PLEASE KEEP A COPY OF YOUR COMPLETED REGISTRATION FORM FOR YOUR RECORDS*****

Additional Comments: Use this section to add any additional information:

Attachment A

Hazardous Liquids Lines
Calendar Year Ending: December 31, 2021
Pipeline Operator: The Westover Companies

Please check here if you have no reportable Hazardous Liquids Lines

Please report mileage to the nearest 1/10th of a mile.

HCA = High Consequence Area

County	Intrastate		Interstate		Total
	Non-HCA	HCA	Non-HCA	HCA	
Adams					0.0
Allegheny					0.0
Armstrong					0.0
Beaver					0.0
Bedford					0.0
Berks					0.0
Blair					0.0
Bradford					0.0
Bucks					0.0
Butler					0.0
Cambria					0.0
Cameron					0.0
Carbon					0.0
Centre					0.0
Chester					0.0
Clarion					0.0
Clearfield					0.0
Clinton					0.0
Columbia					0.0
Crawford					0.0
Cumberland					0.0
Dauphin					0.0
Delaware					0.0
Elk					0.0
Erie					0.0
Fayette					0.0
Forest					0.0
Franklin					0.0
Fulton					0.0
Greene					0.0
Huntingdon					0.0
Indiana					0.0
Jefferson					0.0
Juniata					0.0
Lackawanna					0.0
Lancaster					0.0
Lawrence					0.0
Lebanon					0.0
Lehigh					0.0
Luzerne					0.0
Lycoming					0.0
McKean					0.0
Mercer					0.0
Mifflin					0.0
Monroe					0.0
Montgomery					0.0

Montour					0.0
Northampton					0.0
Northumberland					0.0
Perry					0.0
Philadelphia					0.0
Pike					0.0
Potter					0.0
Schuylkill					0.0
Snyder					0.0
Somerset					0.0
Sullivan					0.0
Susquehanna					0.0
Tioga					0.0
Union					0.0
Venango					0.0
Warren					0.0
Washington					0.0
Wayne					0.0
Westmoreland					0.0
Wyoming					0.0
York					0.0
Total	0.0	0.0	0.0	0.0	0.0

Attachment B

Mileage

Calendar Year Ending: December 31, 2021

Pipeline Operator: The Westover Companies

Please check here if you have no miles to report

Act 127 mileage reporting for this form should not include any pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

Please report mileage to the nearest 1/10th of a mile.

County	Number of Farm Taps	Class 1 Gathering (Conventional)	Class 1 Gathering (Unconventional)	Class 1 Transmission & Distribution	Gathering, Transmission & Distribution			
					Class 2 Gathering Transmission & Distribution	Class 3 Gathering Transmission & Distribution	Class 4 Gathering Transmission & Distribution	Total Class 1 T&D + Class 2+3+4 G,T&D
Adams								0.0
Allegheny								0.0
Armstrong								0.0
Beaver								0.0
Bedford								0.0
Berks						0.4		0.4
Blair								0.0
Bradford								0.0
Bucks						0.4		0.4
Butler								0.0
Cambria								0.0
Cameron								0.0
Carbon								0.0
Centre								0.0
Chester						0.4		0.4
Clarion								0.0
Clearfield								0.0
Clinton								0.0
Columbia								0.0
Crawford								0.0
Cumberland						0.4		0.4
Dauphin								0.0
Delaware						0.9		0.9
Elk								0.0
Erie								0.0
Fayette								0.0
Forest								0.0
Franklin								0.0
Fulton								0.0
Greene								0.0
Huntingdon								0.0
Indiana								0.0
Jefferson								0.0
Juniata								0.0
Lackawanna								0.0
Lancaster								0.0
Lawrence								0.0
Lebanon								0.0
Lehigh								0.0
Luzerne								0.0
Lycoming								0.0

McKean								0.0
Mercer								0.0
Mifflin								0.0
Monroe								0.0
Montgomery						1.1		1.1
Montour								0.0
Northampton								0.0
Northumberland								0.0
Perry								0.0
Philadelphia								0.0
Pike								0.0
Potter								0.0
Schuylkill								0.0
Snyder								0.0
Somerset								0.0
Sullivan								0.0
Susquehanna								0.0
Tioga								0.0
Union								0.0
Venango								0.0
Warren								0.0
Washington								0.0
Wayne								0.0
Westmoreland								0.0
Wyoming								0.0
York								0.0
Total	0.0	0.0	0.0	0.0	0.0	3.6	0.0	3.6

Primary	Heating Type	PUC	Address	City State Zip	County	Units	Zip
<u>Carlisle Park</u>	Gas	Y	525 Third Street	Carlisle, PA 17013	Cumberland County	208	17013
<u>Gladstone Towers</u>	Gas	Y	223 Scottdale Road	Lansdowne, PA 19050	Delaware County	121	19060
<u>Hillcrest</u>	Gas	Y	785 W. Providence Road	Lansdowne, PA 19050	Delaware County	84	19050
<u>Lansdowne Towers</u>	Gas	Y	772 E. Providence Road	Alden, PA 19018	Delaware County	231	19018
<u>Main Line Berwyn</u>	Gas	Y	750 Old Lancaster Road	Berwyn, PA 19312	Chester Count	180	19312
<u>Mill Creek</u>	Gas	Y	255 E. Lincoln Highway	Penndel, PA 19407	Bucks County	174	19407
<u>Norriton East</u>	Gas	Y	2620 Dekalb Pike	East Norriton, PA 19401	Montgomery County	68	19401
<u>Oak Forest</u>	Gas	Y	2220 Alsace Road	Reading, PA 19604	Berks County	143	19604
<u>Park Court</u>	Gas	Y	28 S. Water Street	Womelsdorf, PA 19567	Berks County	66	19567
<u>Valley Stream</u>	Gas	Y	2100 N. Line Street	Lansdale, PA 19446	Montgomery County	242	19446
<u>Willow Run</u>	Gas	Y	3505 Moreland Road, # E-521	Willow Grove, PA 19090	Montgomery County	172	19090

1688

Ech D

Primary

Property Type

Natural Gas

Address

City State Zip

SQ FT

Bryn Mawr Medical Building

Commercial

600 & 931 Haverford Road,

Haverford, PA 19041

62096

EXN
D

WESTOVER EXHIBIT AS-17

NOVEMBER 4, 2021 CORRESPONDENCE FROM WESTOVER'S

COUNSEL TO I&E'S COUNSEL



November 4, 2021

VIA EMAIL (stwimer@pa.gov)

David P. Zambito

Direct Phone 717-703-5892

Direct Fax 215-989-4216

dzambito@cozen.com

Stephanie M. Wimer, Esq.
Senior Prosecutor
Bureau of Investigation and Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Investigation of Westover Property Management Company, L.P. d/b/a Westover Companies Relating to Possible Violations of the Gas and Hazardous Liquids Pipelines Act and Federal Pipeline Safety Laws and Regulations; Bp8CaseID# 3025977

Westover Property Management Company, L.P. d/b/a Westover Companies' Response to the July 28, 2021 Letter from the Bureau of Investigation and Enforcement

Dear Senior Prosecutor Wimer:

This correspondence is in response to your letter dated July 28, 2021 regarding the investigation by the Bureau of Investigation and Enforcement ("I&E") into whether the Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") is in compliance with the Gas and Hazardous Liquids Pipelines Act, 58 P.S. § 801.101 *et seq.* ("Act 127"). You indicated that "[t]his investigation focuses on determining which apartment complexes owned or managed by Westover meet the definitions of "pipeline operator" and "master meter system" set forth in 58 P.S. § 801.102 and 49 CFR § 191.3, respectively, such that compliance with Federal pipeline safety laws and regulations, including 49 CFR Part 192, is obligatory."

For the reasons set forth below, Westover respectfully submits that its natural gas systems are not subject to regulation by the Pennsylvania Public Utility Commission ("Commission").

I. FACTS

Westover owns several apartment complexes in Pennsylvania. In each complex, Westover purchases gas at a point in Pennsylvania from a Commission-regulated public utility (a natural gas distribution company ("NGDC")) and distributes it to the tenants in the complex, charging them for the gas through a meter or rents in compliance with the requirements of 66 Pa. C.S. § 1313 (regarding "Price upon resale of public utility services"). Westover controls who may be a tenant through leases. All of Westover's gas facilities are located on Westover's property, and all of Westover's natural gas customers rent their apartments from Westover. To date, Westover has spent in excess of \$70,000 in response to the activities of I&E field inspectors.

II. WESTOVER'S NATURAL GAS SYSTEMS ARE NOT SUBJECT TO REGULATION BY THE COMMISSION

As an agency created by the General Assembly, the Commission has only the powers given to it by the General Assembly, either explicitly or implicitly. *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791 (Pa. 1977). The question therefore is whether the Commission has authority to regulate Westover's natural gas systems.

A. The Commission does not have Authority to Regulate Westover's Natural Gas Systems Pursuant to 52 Pa. Code § 59.33

Commission regulations at 52 Pa. Code § 59.33 state that the Commission adopts, as the minimum safety standards for all natural gas and hazardous liquid public utilities, the safety standards found in 49 U.S.C. §§ 60101-60503 and 49 CFR Parts 191-193, 195 and 199. Westover, however, is not a public utility. It is not providing natural gas to the public for compensation; it is only providing gas to tenants of its properties, whom it selects by contract. *Drexelbrook Associates v. Pa. Pub. Util. Comm'n*, 418 Pa. 430, 212 A.2d 237 (1965) (holding that a landlord was not subject to Commission jurisdiction where the landlord-tenant contractual relationship established the only persons who could demand utility service). Therefore, the Commission does not have authority to regulate Westover's natural gas systems pursuant to this regulation.

B. The Commission does not have Authority to Regulate Westover's Natural Gas Systems Pursuant to Act 127

In 2011, the General Assembly enacted Act 127 in response to the growth of Marcellus Shale in Pennsylvania. In pertinent part, Section 501(a) of Act 127, 58 P.S. § 801.501(a), gives the Commission the general administrative authority to supervise and regulate "pipeline operators" within this Commonwealth who are subject to Federal pipeline safety laws. The General Assembly also empowered the Commission to adopt regulations, consistent with the Federal pipeline safety laws, but the Commission -- after a decade -- has not promulgated regulations implementing Act 127 or specifically defining its interpretation of the limits of its powers under Act 127.¹

Act 127 gives the Commission authority to regulate Westover's natural gas systems only if Westover is a pipeline operator. A "pipeline operator" is defined as:

"Pipeline operator." A person that owns or operates equipment or facilities in this Commonwealth for the transportation of gas or hazardous liquids by pipeline or pipeline facility regulated under **Federal pipeline safety laws**. The term does not include a public utility or an ultimate consumer who owns a service line on his real property.

¹ Under the Pennsylvania regulatory review process, interested parties would have had an opportunity to provide comments on the appropriate implementation of Act 127 and binding norms on all similarly-situated entities could have been developed. Moreover, the Pennsylvania General Assembly would have had an opportunity to review the Commission regulations and assess consistency with the legislative intent of Act 127. See Pa. Regulatory Review Act, 71 P.S. §§ 745.1 - 745.15; see also Pa. Commonwealth Documents Law, 45 P.S. §§ 1102 - 1208. Without clear binding norms, the risk of selective and discriminatory prosecution is greatly increased.

58 P.S. § 801.102 (“Definitions”) (emphasis added).² The definition of “pipeline” in Act 127 reiterates that Act 127 only pertains to pipelines regulated by the Federal pipeline safety laws.

Act 127 defines “Federal pipeline safety laws” as:

“Federal pipeline safety laws.” The provisions of 49 U.S.C. Ch. 601 (relating to safety), the Hazardous Liquid Pipeline Safety Act of 1979 (Public Law 96-129, 93 Stat. 989), the Pipeline Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts.

Id.

I&E is investigating whether Westover is a “pipeline operator” as defined in Act 127 because it owns or operates a “master meter system,” which is allegedly regulated under the Federal pipeline safety laws. The Federal pipeline safety laws define a master meter system as:

... a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the **operator** purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents[.]

49 CFR § 191.3 (emphasis added). An operator, in turn, is defined as “a person who engages in the transportation of gas.” *Id.* Finally, the transportation of gas is defined as “the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, **in or affecting interstate or foreign commerce.**” *Id.* (emphasis added).

Westover does not gather, transmit or store gas. Therefore, Westover’s distribution of gas by pipeline must be in or must affect interstate or foreign commerce in order for Westover to be an operator of a master meter system.

Westover’s natural gas systems clearly do not distribute gas by pipeline in interstate or foreign commerce. Westover purchases gas in Pennsylvania from an Commission-regulated NGDC. NGDCs are regulated by the Commission rather than by FERC (pursuant to the Hinshaw Amendment, 15 U.S.C. § 717(c)). Consequently, Westover’s purchase of the gas is in intrastate commerce because an NGDC is considered to be an intrastate gas pipeline facility pursuant to the Federal pipeline safety laws. 49 U.S.C. § 60101(a)(9) (defining an “intrastate gas pipeline facility” as a gas pipeline facility and gas transportation within a state that is not subject to FERC pursuant to 15 U.S.C. § 717). Westover transports the gas a short distance and sells it to tenants located in Pennsylvania and located on Westover’s property. From beginning to end, Westover’s purchase, transportation, and sale of the gas is entirely intrastate commerce. Consequently, Westover is not an “operator” as defined in the Federal pipeline safety laws, its system is not a “master meter system” as defined in the Federal pipeline safety laws, and Westover is not a “pipeline operator” as defined in Act 127 because it does not own or operate equipment or facilities

² The Supreme Court of Pennsylvania has held that, “if the General Assembly defines words that are used in a statute, those definitions are binding.” *Pa. Associated Builders & Contractors, Inc. v. Dep’t of Gen. Servs.*, 932 A.2d 1271, 1278 (Pa. 2007); see also *Lower Swatara Twp. v. Pa. Labor Relations Bd.*, 208 A.3d 521 (Pa. Cmwlth. No. 1276 C.D. 2018, filed May 2, 2019).

that are regulated under the Federal pipeline safety laws. The Commission therefore lacks authority to regulate Westover pursuant to Act 127.

There is also no federal jurisdiction over Westover under the negative implications of the Commerce Clause of the United States Constitution, also known as the Dormant Commerce Clause. The Natural Gas Act, including 15 U.S.C. § 717, was intended to fill a regulatory gap and define the nature of federal jurisdiction over interstate and intrastate commerce. *Pub. Utils. Comm'n of State of Cal. v. FERC*, 900 F.2d 269, 275 (D.C. Cir. 1990). This was a reaction to the United States Supreme Court's *ad hoc* and case-by-case definitions of federal jurisdiction over the gas industry under Dormant Commerce Clause cases. The field of federal jurisdiction under the Natural Gas Act is roughly the same as that determined by the Supreme Court in these Dormant Commerce Clause cases; however, the statute intended to make the lines between state and federal jurisdiction clearer. *Fed. Power Comm'n v. E. Ohio Gas Co.*, 338 U.S. 464, 467 (1950).

Today, when assessing what constitutes an undue burden on interstate commerce under the Dormant Commerce Clause, courts engage in a balancing test and consider "legitimate state interests" against any burden on interstate commerce that such state-level regulation imposes. See *Arkansas Elec. Coop. Corp. v. Arkansas Pub. Serv. Comm'n*, 461 U.S. 375 (1983). Further, the Supreme Court has stated that "the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the State." *Id.* at 377. Here, while the analysis under the Natural Gas Act already excludes natural gas systems similar to Westover's (as discussed above), any purported balancing test under the Dormant Commerce Clause would yield the same result because the tenuous connection to interstate commerce by Westover means that any unintended burden on interstate commerce would be minimal. Because Westover engages entirely in intrastate commerce, the Commonwealth has a greater interest than the federal government in regulating its purely intrastate commerce, which outweighs the minimal effect on interstate commerce even where the Pennsylvania General Assembly has knowingly chosen not to regulate.

The Pennsylvania General Assembly, in enacting Act 127, could have expressly included intrastate natural gas systems, such as Westover's, within the Commission's enforcement jurisdiction – but it did not.³ Instead, the General Assembly limited the Commission's enforcement jurisdiction to pipeline operators who are subject to Federal pipeline safety laws. Westover is not such an entity because federal law does not, under Dormant Commerce Clause jurisprudence, extend to Westover's purely intrastate activity.

We have reviewed several letters from the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration interpreting the definition of "master meter system" in 49 CFR § 191.3. None of those letters addresses the question of whether the operator of the master meter system was engaged in or affecting interstate or foreign commerce. As a result, they are of limited usefulness in addressing Westover's situation. In any event, those non-legal opinion letters merely reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification; they do not create legally-enforceable rights or obligations. They certainly do not constitute precedent binding on the Commission or upon Pennsylvania's appellate courts in interpreting Act 127.

³ See *Feingold*, *supra* (regarding limitations on Commission powers).

Finally, construing 49 CFR § 191.3 as applying to landlords such as Westover would effectively give the PUC jurisdiction over every landlord in Pennsylvania that operates a natural gas master meter system to provide gas to its tenants. There are hundreds, perhaps thousands of such systems. If the General Assembly intended to effect such a dramatic change in law, by giving the Commission authority to regulate these entities in Act 127, it would have said so. The fact that it did not do so reflects the General Assembly's intent that these entities would not be regulated by the Commission.

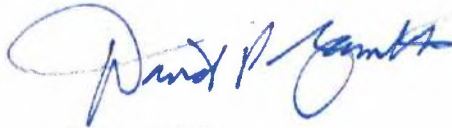
III. Conclusion

Westover appreciates the opportunity to address I&E's concerns about whether Westover's natural gas systems are in compliance with Act 127. In the interest of resolving this matter without the need for litigation, I would welcome the opportunity to discuss Westover's position after you have had an opportunity to review this response and conduct your own research on what constitutes an "operator" of a master meter system that operates exclusively in intrastate commerce.

Thank you for your consideration of this matter. Please do not hesitate to contact me with any question.

Sincerely,

Cozen O'Connor



Counsel for Westover Property Management
Company, L.P. d/b/a Westover Companies

DPZ:kmg

cc: Alexander Stefanelli, CFO, Westover Companies
Peter Quercetti, Vice President Operations Management, Westover Companies
Richard A. Kanaskie, Esq., Director, I&E
Michael L. Swindler, Esq., Deputy Chief Prosecutor, I&E

WESTOVER EXHIBIT AS-18
NOVEMBER 22, 2021 CORRESPONDENCE FROM
I&E'S COUNSEL TO WESTOVER'S COUNSEL



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 22, 2021

Via Electronic Mail Only

David P. Zambito, Esq.
Cozen O'Connor
17 North Second Street
Suite 1410
Harrisburg, PA 17101

Re: Investigation of Westover Property Management Company, L.P. d/b/a
Westover Companies Relating to Possible Violations of the Gas and
Hazardous Liquids Pipelines Act and Federal Pipeline Safety Laws and
Regulations
Bp8CaseID# 3025977
I&E Letter

Dear Attorney Zambito,

The Bureau of Investigation and Enforcement (“I&E”) is in receipt of your letter dated November 4, 2021, wherein you claim that the natural gas systems of your client, Westover Property Management Company, L.P. d/b/a Westover Companies (“Westover”), are not subject to pipeline safety regulation by the Pennsylvania Public Utility Commission (“Commission”). For the reasons set forth herein, I&E disagrees with Westover’s position.

I&E continues to maintain that the pipeline facilities at some, but not all, Pennsylvania apartment complexes owned or managed by Westover constitute “master meter systems” as defined in 49 CFR § 191.3 of the federal pipeline safety regulations and, consequently, are subject to Commission oversight through the Gas and Hazardous Liquids Pipelines Act (“Act 127”), 58 P.S. §§ 801.101, *et seq.* Therefore, I&E’s position that Westover is a “pipeline operator” as defined in Act 127, Section 801.102 remains unchanged. 58 P.S. § 801.102. I&E has never alleged that Westover is a public utility.

Your claim that Westover’s transportation of gas by pipeline does not *affect* interstate or foreign commerce and therefore renders Westover not to be subject to the federal pipeline safety regulations is incorrect. The minimum federal pipeline safety standards apply broadly to both interstate and intrastate pipelines through the federal Pipeline Safety Act, 49 U.S.C. §§ 60101-60143 (“PSA”).

Pursuant to the PSA, States may assume responsibility for regulating intrastate pipeline facilities by submitting an annual certification to the Secretary of the U.S. Department of Transportation pursuant to 49 U.S.C. § 60105. A State that has submitted a certification under Section 60105(a) of the PSA may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum federal pipeline safety standards. 49 U.S.C. § 60104. Pennsylvania, through the Commission's I&E Safety Division, is certified to regulate the safety of intrastate pipelines.

The Pennsylvania General Assembly adopted the federal pipeline safety laws and regulations, as well as all amendments thereto, as the safety standards for non-public utility pipeline operators in Pennsylvania by enacting Act 127. *See* 58 P.S. § 801.302. Additionally, the Pennsylvania General Assembly authorized the Commission to supervise and regulate pipeline operators within Pennsylvania consistent with (but not more stringent than) Federal pipeline safety laws. 58 P.S. § 801.501.

As it relates to Westover, the regulation of intrastate master meter systems fits squarely within the purview of Section 191.3 of the federal pipeline safety regulations, 49 C.F.R. § 191.3. Intrastate gas master meter systems have for decades been subject to pipeline safety regulation either through PHMSA or an authorized State. Since Act 127 became effective, the Commission has enforced violations of Act 127 on pipeline operators operating master meter systems in Pennsylvania. *See Pa. Pub. Util. Comm'n, Bureau of Investigation and Enforcement v. Brookhaven MHP Management LLC, et al.*, Docket No. C-2017-2613983 (Order entered August 23, 2018).

Westover's position is contrary to well-established law and the sound policy of the PSA, which is to provide adequate protection against risks to life and property posed by pipeline transportation and facilities.

I&E has attempted for nearly one-year to amicably work with Westover to aid Westover into becoming compliant with the minimum federal pipeline safety standards. Westover's unregulated master meter systems in their current state pose a risk to Westover's residents, employees, and the general public. Should Westover refuse to submit to the Commission's oversight for pipeline safety purposes, I&E will initiate an enforcement action and seek the imposition of civil penalties pursuant to 58 P.S. § 801.502.

David P. Zambito, Esq.
November 22, 2021
Page 3

Please advise by **December 13, 2021** whether Westover will submit to the Commission's jurisdiction pursuant to Act 127 and finalize the steps necessary to fully comply with the federal pipeline safety regulations. Should Westover respond in the negative and continue to disregard its responsibilities under Act 127, I&E will proceed with formal enforcement action and prepare and file a Formal Complaint.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor, I&E

cc: *(via email only)*
Michael L. Swindler, Esq., I&E Deputy Chief Prosecutor
Kayla L. Rost, Esq., I&E Prosecutor
Terri C. Cooper Smith, Supervisor – Safety Division
Scott Orr, Engineer – Safety Division

VERIFICATION

I, Alexander Stefanelli, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: February 22, 2023

Alexander Stefanelli

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Christopher P. Pell**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	

**REBUTTAL TESTIMONY OF PETER QUERCETTI
ON BEHALF OF WESTOVER
PROPERTY MANAGEMENT COMPANY, L.P.
D/B/A WESTOVER COMPANIES**

NON- PROPRIETARY VERSION

Dated: April 17, 2023

Westover St. No. 1-R

**REBUTTAL TESTIMONY OF
PETER QUERCETTI**

INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Peter Quercetti and my business address is 550 American Avenue, Suite 1, King of Prussia, PA 19406.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by Westover¹ as the Vice President of Operations.

Q. HAVE YOU SUBMITTED ANY OTHER TESTIMONY IN THIS PROCEEDING?

A. Yes. I submitted Direct Testimony, Westover Statement No. 1, on February 22, 2023.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. I will respond to portions of the Direct Testimony of Scott Orr, who submitted Direct Testimony on behalf of I&E.

THRESHOLD ISSUE

Q. WHAT IS THE THRESHOLD ISSUE PRESENTED IN THIS CASE?

A. The threshold issue in this case is whether the Commission has authority to regulate Westover’s Systems. In his testimony, Mr. Orr expresses an opinion as to whether each Westover System is or is not a “master meter system” – as do I, in my Direct Testimony.

¹ Unless otherwise indicated, all capitalized terms and acronyms used herein have the same meaning as set forth in my Direct Testimony.

1 Mr. Orr's pictures do not show a significant difference in the condition of the
2 NGDC's facilities compared to Westover's facilities; it is not as though the NGDC's
3 facilities are pristine and Westover's facilities are covered with corrosion. Mr. Orr
4 repeatedly claims that Westover's Systems are a safety hazard because they exhibit signs
5 of corrosion (for examples, see I&E Statement No. 1 pp. 23, 28, 29, and 32), but his own
6 photographs clearly show corrosion on the NGDC's side of the meter too. If corrosion is
7 such a safety concern, why is I&E not enforcing the regulations that apply to NGDCs? In
8 my opinion, I&E is judging apartment complexes by a higher standard than NGDCs. There
9 is no rational basis for this unequal treatment.

10
11 **Q. DO YOU WISH TO UPDATE MR. ORR'S TESTIMONY?**

12 **A.** Yes. At I&E Exhibit 39B (**CONFIDENTIAL**), Mr. Orr introduced a photograph of gas
13 facilities at Mill Creek Village I (the PECO-owned meter and Westover-owned piping).
14 Mr. Orr testified that he noted safety issues and/or concerns at Mill Creek Village I,
15 including corrosion on the pipe fittings. I&E Statement No. 1 p. 50.

16 For reference, I have attached a copy of I&E Exhibit 39B as **Westover Exhibit**
17 **PQ-31 (CONFIDENTIAL)**. The Westover-owned piping is the vertical pipe below the
18 two meters at the far end of the building, near the fence. All of the other gas facilities
19 shown on the photo are owned by PECO.

20 As you can readily see, the PECO-owned facilities are quite corroded. I contacted
21 PECO to discuss this situation. I was told that I&E had not contacted PECO about the
22 corrosion on PECO's pipes, but PECO personnel would look at it. As a result of my
23 contact, PECO scraped and painted its pipes on or about March 27, 2023, as shown on

1 **Westover Exhibit PQ-32 (CONFIDENTIAL).** Again, by prosecuting Westover,
2 claiming that its corroded pipes are a safety concern/issue, while doing nothing about
3 PECO’s corroded gas facilities, I&E is judging apartment complexes by a higher standard
4 than NGDCs. There is no rational basis for this unequal treatment.

5
6 **STRUCTURE AND OPERATION OF WESTOVER’S SYSTEMS**

7 **INTRODUCTION**

8 **Q. DO YOU HAVE ANY GENERAL COMMENTS REGARDING MR. ORR’S**
9 **DISCUSSION OF THE GAS CONFIGURATIONS AT WESTOVER’S**
10 **APARTMENT COMPLEXES?**

11 **A.** Yes. I agree with Mr. Orr that the Commission must consider each System separately in
12 order to determine whether that System is a “master meter system.” The Commission’s
13 Frequently Asked Questions brochure, **Westover Exhibit AS-3**, states at page 3 (emphasis
14 in original):

15 **8. WHAT IF MY ENTITY HAS PORTIONS THAT ARE**
16 **COVERED UNDER ACT 127 AND PORTIONS THAT ARE NOT?**

17
18 If a person operates multiple facilities, some of which are subject to Act 127
19 and some of which are not, the person is a pipeline operator only with regard
20 to the facilities subject to Act 127.

21 This is why I also considered each Westover System separately in my Direct Testimony.

22 In considering each separate System, however, I think Mr. Orr’s analysis was too
23 simplistic. For example, the Frequently Asked Questions brochure explains that a “master
24 meter system” that only provides service to the operator’s own property is not regulated
25 pursuant to Act 127, whereas a “master meter system” that provides service to property
26 owned by third parties is regulated pursuant to Act 127. **Westover Exhibit AS-3.** Mr.

1 Orr's testimony does not even acknowledge the existence of the Frequently Asked
2 Questions brochure, let alone explain why he does not consider whether any System
3 provides service to property owned by third parties. In my Direct Testimony, I explained
4 that Westover's Systems only provide service to occupants of buildings on the properties
5 operated by Westover; Westover's Systems do not provide service to property owned by
6 third parties. Westover Statement No. 1 p. 6.

7 Similarly, attached as **Westover Exhibit PQ-33** is a document that was Attachment
8 E to I&E's own Answer in Opposition to Westover's Petition for Declaratory Order. At
9 pages 5-6 (footnotes omitted), that document states:

10 [Federal Office of Pipeline Safety ("OPS")] policy is that the term "master
11 meter system" applies only to gas distribution systems serving multiple
12 buildings. It does not apply to gas distribution systems consisting entirely
13 or primarily of interior piping located with a single building. Such systems,
14 however, may be referred to as master meter systems by local utilities and
15 utility regulators for rate purposes, as well as by same state gas pipeline
16 safety regulators for safety regulation purposes.

17
18 Master meter systems consisting entirely or primarily of interior piping
19 located within a single building are excluded by the OPS from its definition
20 because:

21
22 ... such systems do not resemble the kinds of distribution systems
23 to which Congress intended the Natural Gas Pipeline Safety Act to
24 apply because of the absence of any significant amount of
25 underground or external piping serving more than one building.

26 Since this document was attached to I&E's own pleading, Mr. Orr certainly should
27 have known that the federal agency that enforces pipeline safety does not consider systems
28 comprised entirely or primarily of interior piping to be "master meter systems." Mr. Orr,
29 however, does not acknowledge this fact in his analysis or explain why he reaches a
30 different conclusion than OPS. He concludes that Systems such as Woodland Plaza, Fox
31 Run, Country Manor, Norriton East, Mill Creek Village II and Paoli South (Buildings A-

1 D), which are comprised entirely or primarily of interior piping at individual buildings, are
2 “master meter systems.”

3 In addition, on page 3 of his Direct Testimony, Mr. Orr quotes the definition of a
4 “master meter system,” which states, in part, that a “master meter system” is “a pipeline
5 system for distributing gas *within, but not limited to, a definable area,*” such as an
6 apartment complex. 49 CFR § 191.3 (emphasis added). On February 10, 2023, Westover
7 filed a Motion for Summary Judgment focusing on the italicized language. Nonetheless,
8 Mr. Orr’s Direct Testimony, filed almost two weeks later, simply states: “a master meter
9 system includes a pipeline system within a definable area such as an apartment complex,
10 which meets the other elements of the definition.” I&E Statement 1 p. 3. I do not
11 understand why his testimony did not address whether every System satisfies the
12 requirement that a “master meter system” be “within, but not limited to” the pertinent
13 apartment complex. He conveniently ignores language that clearly undercuts his position.

14 On page 4 of his Direct Testimony, Mr. Orr states that a pipeline is defined as all
15 parts of those physical facilities through which gas moves in transportation. He neglects
16 to note, however, that the transportation of gas is defined as the gathering, transmission,
17 distribution or storage of gas “in or affecting interstate or foreign commerce.” Westover
18 Statement No. 1 p. 17. Mr. Orr’s testimony does not provide any factual basis for finding
19 that any Westover System is “in” or “affects” interstate or foreign commerce.

20
21 **BLACK HAWK**

22 **Q. AT PAGES 22-23 OF HIS DIRECT TESTIMONY, MR. ORR DISCUSSES THE**
23 **SYSTEM AT BLACK HAWK. DOES HE STATE THE FACTS CORRECTLY?**

1 A. No. On page 22, Mr. Orr states “[t]he gas facilities at Black Hawk Apartments which
2 distribute gas to the tenants are limited to the apartment complex.” He also states
3 “Westover then charges the tenant, the ultimate consumer, for the gas through rent.” This
4 description is not accurate.

5 All of the gas facilities operated by Westover are located within the apartment
6 complex. At this apartment complex, however, gas is not distributed to tenants; Westover
7 consumes all the gas in its central boiler and provides heat and hot water to building
8 occupants. Building occupants pay Westover for the gas that Westover consumes through
9 their rent.

10 Mr. Orr argues that, because the building occupants pay for the gas through rent,
11 they consume the gas. That is like saying that if I give my son money to buy dinner, I
12 “consumed” the food even though my son went to the restaurant and ate the food. That
13 conclusion does not make sense.

14 As I discussed at pages 10-11 of my Direct Testimony, the definition of the term
15 “master meter system” requires that the operator of the system purchase gas for resale and
16 then distributes it through the pipeline system to another party, who burns the gas (*i.e.*,
17 consumes it). That does not happen at this apartment complex. Therefore, this complex is
18 not a “master meter system.”

19
20 **Q. MR. ORR ALSO DISCUSSES “SAFETY ISSUES AND/OR CONCERNS” AT**
21 **BLACK HAWK. PLEASE RESPOND.**

22 A. Mr. Orr alleges that there is a “severe safety risk” because “[t]he PECO meters and vents
23 and the Westover pipelines are located directly in front of operable windows.” I&E

1 Statement No. 1 p. 22. I am advised by counsel that Commission regulations generally
2 require the public utility to provide and install the gas meter. If having a meter in front of
3 an operable window is a violation of the Federal pipeline safety regulations, I&E should
4 have prosecuted PECO for placing its meters in such a location. Apparently, I&E did not.
5 If PECO is permitted to place its meters in that location, Westover has no choice but to
6 install pipes that connect to those meters – in front of operable windows. As I said earlier,
7 Mr. Orr appears to be applying a higher standard to apartment complexes than to NGDCs.²
8

9 **BRYN MAWR MEDICAL BUILDING**

10 **Q. IN YOUR DIRECT TESTIMONY, YOU DISCUSSED TWO BRYN MAWR**
11 **MEDICAL BUILDINGS, ONE LOCATED AT 931 HAVERFORD ROAD AND**
12 **ONE LOCATED AT 600 HAVERFORD ROAD. DOES MR. ORR DISCUSS**
13 **THESE COMMERCIAL PROPERTIES IN HIS TESTIMONY?**

14 **A.** No, but he should have discussed them because they are within the scope of this case.
15 These buildings are listed on Exhibit D of every Westover Act 127 Registration filed since
16 August 6, 2021. **Westover Exhibits AS-14 through AS-16 and AS-19.** Westover’s
17 Petition for Declaratory Order asked the Commission to find Westover’s Act 127
18 Registration null and void because none of the Systems named on the Act 127 Registration
19 is a “master meter system.” Other than acknowledging that Westover filed the Petition for
20 Declaratory Order, Mr. Orr’s Direct Testimony does not address that pleading.
21

² Mr. Orr described the same “safety issue or concern” at Lansdowne Towers, p. 46 of his Direct Testimony. Again, if the NGDC is permitted to install its meter in an unsafe location, I fail to understand why Westover should be penalized for connecting its facilities to that meter.

1 **CARLISLE PARK**

2 **Q. AT PAGES 27-29, MR. ORR DISCUSSES THE SYSTEM AT CARLISLE PARK.**
3 **DO YOU HAVE ANY COMMENTS REGARDING HIS DESCRIPTION OF THE**
4 **SYSTEM?**

5 **A.** Yes. On December 27, 2022, I&E answered Set I Requests for Admission from Westover.
6 In pertinent part, I&E stated: “To the extent that I&E has no information to the contrary,
7 I&E admits that all of Westover’s gas facilities [at Carlisle Park] are located within the
8 apartment complex.” **Westover Exhibit PQ-5** p. 31. On February 8, 2023, I&E filed
9 amended answers to Set I Requests for Admission, which did not amend this answer.
10 **Westover Exhibit PQ-14.** On February 22, 2023, I&E filed its Direct Testimony, which
11 suddenly took the position that Westover’s facilities at Carlisle Park are “mostly limited to
12 the apartment complex” because **BEGIN CONFIDENTIAL** [REDACTED]
13 [REDACTED] **END CONFIDENTIAL** Nevertheless, Mr.
14 Orr finds that the System at Carlisle Park is a “master meter system.”

15 The 60 feet of pipe underneath a public road running through the apartment
16 complex should not result in the entire System at Carlisle Park being labeled a “master
17 meter system.” All of the gas facilities at Carlisle Park are located on the same parcel of
18 land and are within the perimeter of the apartment complex. **BEGIN CONFIDENTIAL**

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

1 [REDACTED] **END CONFIDENTIAL** The gas pipe connecting one side of the
2 Carlisle Park apartment complex to the other side of the Carlisle Park apartment complex
3 is within the perimeter of the apartment complex. The fact that this pipe happens to be
4 located under a road does not mean the pipe is located outside the apartment complex.
5 Instead, the road is located within the apartment complex.
6

7 **Q. PLEASE DESCRIBE HOW THE INFRASTRUCTURE IS MAINTAINED AT**
8 **CARLISLE PARK.**

9 **A.** Westover maintains the gas appliances and pipes in the units, but UGI has maintained the
10 gas infrastructure and has responded to and repaired leaks at this apartment complex since
11 1972.
12

13 **CONCORD COURT**

14 **Q. AT PAGES 29-31 OF HIS DIRECT TESTIMONY, MR. ORR DISCUSSES THE**
15 **SYSTEM AT CONCORD COURT. DOES HE STATE THE FACTS**
16 **CORRECTLY?**

17 **A.** No. On page 29, Mr. Orr states “[t]he gas facilities at Concord Court Apartments which
18 distribute gas to the tenants are limited to the apartment complex.” He also states “The gas
19 is then resold to the residents of Concord Court Apartments through rents.” This is not
20 accurate.

21 All of the gas facilities operated by Westover are located within the apartment
22 complex. At this apartment complex, however, gas is not distributed to building occupants.
23 Westover consumes all of the gas in its central boiler and distributes heat and hot water to

1 building occupants. Building occupants pay Westover for the gas that Westover consumes
2 through their rent.

3

4 **COUNTRY MANOR**

5 **Q. AT PAGES 31-33, MR. ORR DISCUSSES THE SYSTEM AT COUNTRY MANOR.**
6 **DO YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

7 **A.** I have one correction. On page 31, Mr. Orr states “Westover purchases the gas from PECO
8 and then resells the gas to the residents of Country Manor through rent.” As I explain in
9 my Direct Testimony, Westover does not resell all of the gas to building occupants at this
10 apartment complex. Westover consumes some of the gas (to produce heat and hot water,
11 which is distributed to building occupants) and resells the remainder to building occupants
12 (who consume it for cooking).

13 It is important to distinguish the gas consumed by Westover from the gas consumed
14 by building occupants because I am advised by counsel that any particular Westover
15 System only meets the definition of a “master meter system” to the extent that the System
16 resells gas to building occupants who ultimately consume the gas. For example, where, as
17 here, Westover consumes gas to produce heat and hot water, that part of the System does
18 not meet the definition of a “master meter system;” only the part of the System that
19 distributes gas to building occupants for cooking is a “master meter system” (assuming that
20 part of the System meets all the other requirement of a “master meter system”).

21

22 **Q. DO YOU HAVE ANY OTHER COMMENTS ABOUT MR. ORR’S TESTIMONY**
23 **REGARDING COUNTRY MANOR?**

1 A. I am advised by counsel that the Commission does not have authority to interpret contracts,
2 but I just want to point out that Westover is complying with its lease. On page 32 of his
3 Direct Testimony, Mr. Orr states that the tenant’s allocation is to be based upon sub-
4 metering, but he did not observe sub-meters. In fact, the lease states that the gas service
5 provider will bill Westover, who will bill the building occupant based on submetering, but
6 allocation formulas are used when the apartment has no submeter. I&E Exhibit 24B, pp.
7 7-8.

8
9 **FOX RUN**

10 **Q. AT PAGES 33-35, MR. ORR DISCUSSES THE SYSTEM AT FOX RUN. DO YOU**
11 **HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

12 A. I have the same correction as I had for the System at Country Manor. On page 33, Mr. Orr
13 states “Westover purchases gas from PECO, which is then resold to the residents of Fox
14 Run through rent.” As I explain in my Direct Testimony, Westover does not resell all of
15 the gas to building occupants at this apartment complex. Westover consumes some of the
16 gas (to produce hot water, which is distributed to building occupants) and resells the
17 remainder to building occupants (who consume the gas to produce heat).

18
19 **GLADSTONE TOWERS**

20 **Q. AT PAGES 35-38, MR. ORR DISCUSSES THE SYSTEM AT GLADSTONE**
21 **TOWERS. DO YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

22 A. I have the same correction as I had for the System at Country Manor. On page 36, Mr. Orr
23 states “Westover purchases the gas from PECO, and the resident is then billed for the gas

1 service based upon an actual meter reading from a sub-meter.” As I said in my Direct
2 Testimony, Westover does not resell all of the gas to building occupants at this apartment
3 complex. Westover consumes some of the gas (to produce hot water, which is distributed
4 to building occupants) and resells the remainder to building occupants (who use it for
5 heating, cooking and running dryers in units).

6
7 **HILLCREST**

8 **Q. DO YOU HAVE ANY COMMENTS ABOUT MR. ORR’S TESTIMONY**
9 **REGARDING “SAFETY CONCERNS OR INCIDENTS” AT HILLCREST**
10 **APARTMENTS?**

11 **A.** On page 40 of his Direct Testimony, Mr. Orr describes a non-compliance letter that was
12 sent to Westover following a gas outage, by stating: “Notably, significant, active corrosion
13 existed on numerous steel service risers throughout the apartment complex and Westover
14 lacked proper procedures and programs to recondition or phase out the steel service risers.
15 To the best of my knowledge, none of these [sic] conditions articulated in the Non-
16 Compliance letter were corrected.”

17 **Westover Exhibit PQ-1**, attached to my Direct Testimony, contradicts this
18 statement. This letter notified I&E of the leak that occurred on May 9, 2022 and describes
19 Westover’s response:

20 The leak was caused by deteriorated galvanized piping. A
21 contractor repaired the leak by cutting back to the plastic gas piping and
22 removing all the deteriorated piping. The Contractor also installed a repair
23 coupling and 10” of new plastic pipe with a new valve. The repaired line
24 was tested to 100 pounds of pressure. Gas was then restored and the
25 complex was purged. A leak survey was subsequently performed, and the
26 system passed.

1 In addition, all of the risers in the entire complex were replaced and pressure regulators
2 were checked for leaks. Any pressure regulator that leaked was replaced.

3 In short, Westover has addressed the issues that caused the gas outage.
4

5 **JAMESTOWN VILLAGE**

6 **Q. AT PAGES 41-43 OF HIS DIRECT TESTIMONY, MR. ORR DISCUSSES THE**
7 **JAMESTOWN VILLAGE SYSTEM. YOU DID NOT DISCUSS THIS SYSTEM IN**
8 **YOUR DIRECT TESTIMONY. PLEASE EXPLAIN WHY.**

9 **A.** As my colleague, Alexander Stefanelli discusses in his Rebuttal Testimony, Jamestown
10 Village is beyond the scope of this proceeding. Nevertheless, since Mr. Orr has introduced
11 evidence about this apartment complex, I feel compelled to tell Westover's side of the
12 story.
13

14 **Q. DO YOU AGREE WITH MR. ORR THAT THE SYSTEM AT JAMESTOWN**
15 **VILLAGE IS A "MASTER METER SYSTEM?"**

16 **A.** No. A map of this System is attached as **Westover Exhibit PQ-35 (CONFIDENTIAL)**.
17 At this apartment complex, gas is transferred from the NGDC to Westover at meters on the
18 buildings. Westover consumes some of the gas (to produce hot water, which is distributed
19 to building occupants) and pipes the remainder to individual units, where building
20 occupants burn the gas for heating and cooking. Building occupants pay Westover for the
21 gas they use for heat based on actual usage (submeters for the heaters are located in each
22 unit). Building occupants pay Westover (both for the gas it uses to produce hot water, and
23 for the gas they use for cooking) through rent.

1 At this apartment complex, there are no underground pipes. Virtually all of
2 Westover’s gas pipes are located inside a building; the only exterior piping is a few feet of
3 pipe that transports gas from the meter to the outside wall of the building.³

4 This System does not meet the test of a “master meter system” for the same reasons
5 as Woodland Plaza, Fox Run, Country Manor, Norriton East, Mill Creek Village II and
6 Paoli South (Buildings A-D):

7 A. All gas facilities operated by Westover are located within the apartment
8 complex. I&E admits that all of Westover’s gas facilities at this complex
9 are located within the apartment complex. I&E Statement No. 1 p. 41. This
10 System therefore does not meet the first element of the test of a “master
11 meter system.”

12 B. Virtually all of Westover’s distribution system is comprised of piping inside
13 a single building. The only exterior piping is a few feet of pipe from the
14 NGDC’s meter to the wall of the building. The rest of the piping is located
15 entirely within the building and therefore within the apartment complex. As
16 discussed earlier, the policy of the federal agency that enforces the federal
17 pipeline safety regulations is that systems that are primarily composed of
18 interior piping are not “master meter systems.”

19 C. The System does not meet the second element of the test of a “master meter
20 system” because Westover is not the “operator” of a pipeline system at this
21 complex. An “operator” of a pipeline system engages in the transportation

³ I am advised by counsel that Commission regulations generally require meters and regulators to be located outside and aboveground. If a few feet of outside pipe are sufficient to make a system a “master meter system,” these regulations will ensure that hundreds, if not thousands, of apartment complexes and commercial properties are “master meter systems.”

1 of gas, which must be “in or affecting interstate or foreign commerce.”
2 Westover Statement No. 1 p. 17.

3 Westover purchases the gas from an NGDC within the boundaries
4 of the apartment complex in Pennsylvania and transports the gas within the
5 complex in Pennsylvania, where the gas is resold to building occupants.
6 Moreover, Westover’s purchase and re-sale of the gas does not increase the
7 amount of gas purchased and sold; Westover only purchases the amount of
8 gas that the building occupants would have purchased if they bought gas
9 directly from the NGDC. Additionally, Westover’s purchase and resale of
10 the gas is well downstream of any transaction in interstate or foreign
11 commerce and does not affect those prior transactions.

12 As explained in my Direct Testimony, pages 17-18, in such a
13 situation, the System does not distribute gas “in or affecting interstate or
14 foreign commerce.” Consequently, the Commission should find that the
15 System does not satisfy all four parts of the definition of a “master meter
16 system.”

17
18 **LANSDALE VILLAGE**

19 **Q. AT PAGES 43-44 OF HIS DIRECT TESTIMONY, MR. ORR DISCUSSES THE**
20 **SYSTEM AT LANSDALE VILLAGE. DOES HE STATE THE FACTS**
21 **CORRECTLY?**

22 **A.** No. On page 43, Mr. Orr states “[t]he gas facilities at Lansdale Village which distribute
23 gas to the tenants are limited to the apartment complex.” All of the gas facilities operated

1 by Westover are located within the apartment complex. However, at this apartment
2 complex, no gas is distributed to building occupants. Westover consumes all the gas in a
3 central boiler and distributes heat and hot water to occupants of all the buildings. Building
4 occupants use electricity for cooking; they do not consume gas at all. Building occupants
5 pay Westover for the gas that Westover consumes through their rent.
6

7 **LANSDOWNE TOWERS**

8 **Q. AT PAGES 45-47, MR. ORR DISCUSSES THE SYSTEM AT LANSDOWNE**
9 **TOWERS. DO YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

10 **A.** On page 45, Mr. Orr states “Westover purchases the gas from PECO, and then bills the
11 resident based upon an actual meter reading from the sub-meter.” Westover does not resell
12 all of the gas to building occupants at this apartment complex. As I said in my Direct
13 Testimony, Westover consumes some of the gas (to produce hot water, which is distributed
14 to building occupants) and resells the remainder to building occupants (who use the gas for
15 heating and for coin-operated dryers). Building occupants pay Westover for the gas that
16 they consume based on actual usage, which is metered in each unit. The gas that Westover
17 consumes is treated like any other expense of operating the property, and is paid for through
18 rents.
19

20 **MAIN LINE BERWYN**

21 **Q. AT PAGES 47-49, MR. ORR DISCUSSES THE SYSTEM AT MAIN LINE**
22 **BERWYN. DO YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

1 A. On page 48, Mr. Orr states “Westover purchases gas from PECO, and then bills the resident
2 based upon an actual meter reading from the sub-meter.” Westover does not resell all of
3 the gas to building occupants at this apartment complex. As I said in my Direct Testimony,
4 Westover consumes some of the gas (to produces hot water, which is distributed to building
5 occupants) and resells the remainder to building occupants (who burn it for heating and
6 cooking). Building occupants pay Westover for the gas that they consume based on actual
7 usage, which is metered in each unit. The gas that Westover consumes is treated like any
8 other expense of operating the property, and is paid for through rents.

9

10 **Q. DO YOU HAVE ANY OTHER COMMENTS TO MAKE IN RESPONSE TO MR.**
11 **ORR’S TESTIMONY REGARDING MAIN LINE BERWYN?**

12 A. Yes, I would like to update his testimony. Mr. Orr states that all of the gas facilities past
13 the PECO-owned meter are owned by Westover. According to Mr. Orr, from the PECO-
14 owned meter: “The gas then flows to a pipeline and manifold, through underground piping
15 to the other buildings, to a riser and regulator, through piping, and then to a submeter
16 installed by Westover.” I&E Statement 1 pp 47-48. All of Westover’s facilities were
17 recently replaced by personnel employed by Danella Companies, Inc. who have completed
18 federal operator qualification training.

19

20 **MILL CREEK VILLAGE I**

21 **Q. AT PAGES 49-50, MR. ORR DISCUSSES THE SYSTEM AT MILL CREEK**
22 **VILLAGE I. DO YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

1 A. On page 50, Mr. Orr states “Westover purchases the gas from the local natural gas
2 distribution company, PECO, and then resells the gas to residents of Mill Creek I through
3 rent.” Westover does not resell all of the gas to building occupants at this apartment
4 complex. As I said in my Direct Testimony, Westover consumes some of the gas (to
5 produce heat and hot water, which is distributed to building occupants) and resells the
6 remainder to building occupants (who burn it for cooking). Building occupants pay
7 Westover for the gas (both the gas consumed by Westover and the gas consumed by the
8 building occupants) in their rent.

9

10 **MILL CREEK VILLAGE II**

11 **Q. AT PAGE 51, MR. ORR DISCUSSES THE SYSTEM AT MILL CREEK VILLAGE**
12 **II. DO YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

13 A. Mr. Orr states “Westover purchases the gas from PECO, and the gas is then resold to the
14 residents of Mill Creek II through rent.” Westover does not resell all of the gas to building
15 occupants at this apartment complex. As I said in my Direct Testimony, Westover
16 consumes some of the gas (to produce heat and hot water, which is distributed to building
17 occupants) and resells the remainder to building occupants (who burn it for cooking).
18 Building occupants pay Westover for the gas (both the gas consumed by Westover and the
19 gas consumed by building occupants) in their rent.

20 Significantly, at this apartment complex, all of Westover’s distribution piping is
21 located inside a building. Mr. Orr neglects to note this important fact. As discussed earlier
22 in my Rebuttal Testimony, and at pages 14-17 and 41 of my Direct Testimony, a

1 distribution system entirely comprised of piping inside a building should not be considered
2 a “master meter system.”

3
4 **Q. DO YOU HAVE ANY OTHER COMMENTS ABOUT MR. ORR’S TESTIMONY**
5 **REGARDING MILL CREEK VILLAGE II?**

6 **A.** On page 51, Mr. Orr states: “However, Westover must allow PECO to enter the building
7 to compete [sic] the required leak surveys pursuant to 49 CFR § 192.723 (Distribution
8 systems; Leakage surveys, and other required inspections).” I do not understand what point
9 Mr. Orr is trying to make with this comment. I am not aware that PECO has ever had any
10 difficulty gaining entrance to the building to complete a leak survey.

11
12 **NORRITON EAST**

13 **Q. AT PAGES 52-53, MR. ORR DISCUSSES THE SYSTEM AT NORRITON EAST.**
14 **DO YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

15 **A.** Yes. Mr. Orr states “Westover purchases the gas from PECO, and the gas is then resold to
16 the residents of Norriton East Apartments through rent.” Westover does not resell all of
17 the gas to building occupants at this apartment complex. As I said in my Direct Testimony,
18 Westover consumes some of the gas (to produce heat and hot water, which is distributed
19 to building occupants) and resells the remainder to building occupants (who use it for
20 cooking and for coin-operated dryers). Building occupants pay Westover for the gas (both
21 the gas consumed by Westover and the gas consumed by building occupants) in their rent.

22 In addition, I would like to make a small correction in my Direct Testimony. At
23 page 22 of my testimony, I stated “the only exterior piping is a few feet of pipe from the

1 meter to the outside wall.” Mr. Orr is correct that there is also a short Westover-owned gas
2 line on the exterior of the building that supplies gas to an emergency generator.
3 Nevertheless, I stand by my statement on page 22 that “Virtually all of Westover’s gas
4 pipes are located within the building.” As discussed earlier, even the federal agency that
5 enforces the federal pipeline safety regulations believes a gas system that is primarily
6 composed of interior piping should not be considered a “master meter system.”
7

8 **OAK FOREST**

9 **Q. AT PAGES 53-55, MR. ORR DISCUSSES THE SYSTEM AT OAK FOREST. DO**
10 **YOU HAVE ANY CORRECTIONS TO THIS TESTIMONY?**

11 **A.** Yes. Mr. Orr states “Westover purchases gas from UGI, and then resells the gas to the
12 residents of Oak Forest through rent.” Westover does not resell all of the gas to building
13 occupants at this apartment complex. As I said in my Direct Testimony, Westover
14 consumes some of the gas (to produce heat and hot water, which is distributed to building
15 occupants) and resells the remainder to building occupants (who burn it for cooking).
16 Building occupants pay Westover for the gas (both the gas consumed by Westover and the
17 gas consumed by building occupants) in their rent.
18

19 **PAOLI NORTH**

20 **Q. AT PAGES 55-57, MR. ORR DISCUSSES THE SYSTEM AT PAOLI NORTH.**
21 **PLEASE COMMENT ON HIS DESCRIPTION OF THIS SYSTEM.**

22 **A.** Mr. Orr notes that, at Buildings L-R, “the tenants are provided gas service and billed by
23 PECO through individual PECO-owned meters.” I&E Statement No. 1 p. 56. Yet Mr. Orr

1 concludes that the entire System at Paoli North is a “master meter system.” I do not
2 understand how he reaches this conclusion. The System at Buildings L-R is just like the
3 Systems at Paoli South Valley Townhomes and Willow Run. Mr. Orr admits that those
4 Systems are not “master meter systems.” I&E Statement No. 1 pp. 59 and 62. The System
5 at Paoli North, Buildings L-R, should not be considered a “master meter system” for the
6 same reasons that the Systems at South Valley Townhomes and Willow Run are not
7 “master meter systems.”
8

9 **PAOLI SOUTH**

10 **Q. AT PAGES 57-58, MR. ORR DISCUSSES THE SYSTEM AT PAOLI SOUTH.**
11 **PLEASE COMMENT ON HIS DESCRIPTION OF THIS SYSTEM.**

12 **A.** At this apartment complex, as at Paoli North, the System is different in different portions
13 of the complex. Mr. Orr does not acknowledge the difference between the System at
14 Buildings A-D and the System at Buildings E-H. In my opinion, Mr. Orr improperly
15 describes the Paoli South System in broad terms.

16 In my Direct Testimony, I tried to convey the complexity of Westover’s Systems
17 without going into unnecessary detail. Nevertheless, the differences between the System
18 at Buildings A-D and the System at Buildings E-H are significant in terms of the test of a
19 “master meter system.” Westover Statement No. 1 pp. 47-50 (at Buildings A-D, almost all
20 of the gas piping is inside a building, whereas there is underground pipe at Buildings E-H).
21

1 **PAOLI SOUTH VALLEY TOWNHOMES**

2 **Q. AT PAGE 59, MR. ORR DISCUSSES THE SYSTEM AT PAOLI SOUTH VALLEY**
3 **TOWNHOMES. HE CONCLUDES THAT THIS SYSTEM IS NOT A “MASTER**
4 **METER SYSTEM.” PLEASE COMMENT.**

5 **A.** I agree. However, as I said above, I do not see any factual distinction between this System
6 and the System at Paoli North Buildings L-R, where Mr. Orr reaches a different conclusion.
7

8 **PARK COURT**

9 **Q. AT PAGES 59-60, MR. ORR DISCUSSES THE SYSTEM AT PARK COURT.**
10 **PLEASE COMMENT ON HIS DESCRIPTION OF THIS SYSTEM.**

11 **A.** Mr. Orr states “Westover purchases the gas from UGI and then bills the resident based
12 upon an allocated basis related to the square footage of the unit.” I&E Statement No. 1 p.
13 60. Westover does not resell all of the gas to building occupants at this apartment complex.
14 As I said in my Direct Testimony, Westover consumes some of the gas (to produce hot
15 water, which is distributed to building occupants) and resells the remainder to building
16 occupants (who burn it for heating, cooking and coin-operated dryers). Building occupants
17 pay Westover for the gas (both the gas consumed by Westover and the gas consumed by
18 building occupants) based on RUBS.
19

20 **VALLEY STREAM**

21 **Q. AT PAGES 60-62, MR. ORR DISCUSSES THE SYSTEM AT VALLEY STREAM.**
22 **PLEASE COMMENT ON HIS DESCRIPTION OF THIS SYSTEM.**

1 A. Mr. Orr states “Westover purchases the gas from PECO, and then bills the resident based
2 upon rents.” Westover does not resell all of the gas to building occupants at this apartment
3 complex. As I said in my Direct Testimony, Westover consumes some of the gas (to
4 produce hot water, which is distributed to building occupants) and resells the remainder to
5 building occupants (who consume the gas to produce heat, to run gas dryers in the units,
6 and, in some cases, to cook). Building occupants pay Westover for the gas (both the gas
7 consumed by Westover and the gas consumed by building occupants) in their rent.

8

9 **WILLOW RUN**

10 **Q. AT PAGE 62, MR. ORR DISCUSSES THE SYSTEM AT WILLOW RUN. HE**
11 **CONCLUDES THAT THIS SYSTEM IS NOT A MASTER METER SYSTEM.**
12 **PLEASE COMMENT.**

13 A. I agree. However, as I said above, I do not see a factual distinction between this System
14 and the System at Paoli North Buildings L-R, where Mr. Orr reaches a different conclusion.

15

16 **WOODLAND PLAZA**

17 **Q. AT PAGES 63-64, MR. ORR DISCUSSES THE SYSTEM AT WOODLAND**
18 **PLAZA. PLEASE COMMENT ON HIS DESCRIPTION OF THIS SYSTEM.**

19 A. Mr. Orr notes that “Westover owns the pipeline that enters the building to serve a central
20 hot water heater and boiler,” but he neglects to note that this short segment of pipeline is
21 the only segment of gas pipe that is located outside a building. As discussed in my Direct
22 Testimony, the fact that virtually all gas pipe at this System is interior piping in a single
23 building is just one reason why this System is not a “master meter system.”

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Q. AT PAGES 63-64 OF HIS DIRECT TESTIMONY, MR. ORR DISCUSSES SAFETY ISSUES AND/OR CONCERNS AT WOODLAND PLAZA. PLEASE RESPOND.

A. Mr. Orr discusses gas leaks that were found during I&E’s inspection of Woodland Plaza on November 15, 2022. Mr. Orr states that leaks were found on the pipeline facilities, but is unclear regarding the location of the leaks. In fact, all of the leaks were on UGI’s side of the meter – not on Westover’s facilities.

Westover contacted UGI after the inspection regarding UGI’s facilities at Woodland Plaza. On March 20, 2023, UGI started a project to replace all of its gas service laterals and meter sets at this complex. Most of the work has been completed, but some work remains outstanding because additional permits are required to perform this part of the work.

MR. ORR’S SUMMARY AND CONCLUSIONS

Q. AT PAGE 67 OF HIS TESTIMONY, MR. ORR STATES “TO THE BEST OF MY KNOWLEDGE, THE PIPELINE SYSTEMS AT THESE APARTMENT COMPLEXES HAVE NOT BEEN EXAMINED OR MAINTAINED SINCE INSTALLATION, APPROXIMATELY 40-60 YEARS AGO.” PLEASE RESPOND.

A. Mr. Orr’s conclusion should be given little weight because he has not established any legitimate basis for claiming that he has any meaningful knowledge of what has or has not been done to the Systems over the course of 40 to 60 years. Moreover, his speculation is contrary to the evidence:

- Mr. Orr contends that Jamestown Village is within the scope of this proceeding. While I disagree with that assertion, Mr. Orr certainly should know that

1 Westover quickly and effectively responded to a leak at that site in May, 2018.
2 Westover Statement No. 1 p. 4.

- 3 • Mr. Orr admits that, during the course of this proceeding, leaks were discovered
4 on Westover's facilities at Hillcrest and Gladstone Towers. Mr. Orr certainly
5 should know that Westover quickly and effectively responded to those leaks.

6 In discovery, Westover advised I&E of modifications that had been made in its
7 Systems. **Westover Exhibits PQ-34 and PQ-36.** As noted in **Westover Exhibit PQ-37**
8 **(CONFIDENTIAL)**, Mr. Orr personally observed the modifications in the System at Park
9 Court during his inspection of the System on November 15, 2022. This evidence
10 demonstrates that Mr. Orr's testimony is an exaggeration.

11
12 **Q. AS VICE PRESIDENT OF OPERATIONS OF WESTOVER, ARE YOU**
13 **FAMILIAR WITH WESTOVER'S MAINTENANCE AND OPERATION OF ITS**
14 **SYSTEMS?**

15 **A.** Yes, I am very familiar with the operation, maintenance, repair and improvement of
16 Westover's facilities, including the gas facilities and equipment.

17
18 **Q. BASED ON YOUR PERSONAL KNOWLEDGE AND YOUR REVIEW OF**
19 **WESTOVER'S BUSINESS RECORDS, HAS WESTOVER EXAMINED OR**
20 **MAINTAINED ITS SYSTEMS DURING THE LAST 40-60 YEARS?**

21 **A.** Of course. Even without being regulated as a gas pipeline operator, Westover obviously
22 wants to: ensure the safety of building occupants and the public, avoid potential liabilities,
23 and protect its properties from damage. It is good business and the right thing to do.

24 My Direct Testimony, which described changes that Westover has made or plans
25 to make at various Systems, directly contradicts Mr. Orr's testimony. In addition, our
26 discovery responses at **Westover Exhibits PQ-36 and PQ-37 (CONFIDENTIAL)**

1 clearly demonstrate that Westover has examined and maintained its Systems. Finally, my
2 Rebuttal Testimony regarding Woodland Plaza demonstrates that Westover promotes
3 safety at its apartment complexes by working together with the NGDC to improve the
4 NGDC's facilities at our apartment complexes.

5 I think it is significant that, even though Mr. Orr identifies various items at
6 Westover Systems as "serious safety concerns," he did not say anything to Westover about
7 these conditions during the inspections so that we could expeditiously eliminate these
8 alleged dangers to building occupants. Nevertheless, Westover has already remedied some
9 of the items that Mr. Orr discussed in his testimony, including the following:

- 10 • Hillcrest: Our contractor (Miller Brothers, Inc., using OQ-certified employees)
11 addressed the issues with risers that Mr. Orr discusses at page 16, lines 15-20
12 of his testimony.
- 13 • Oak Forest Apartments: The gas pipeline discussed at page 18, lines 18-20 of
14 Mr. Orr's testimony, is no longer laying on the grass.
- 15 • Lansdowne Towers: Our contractor (Miller Brothers, Inc., using OQ-certified
16 employees) addressed the manifold that was supported by wooden blocks and
17 partly resting on the ground, which was described in Mr. Orr's testimony at
18 page 46.
- 19 • Paoli South: Westover has replaced the corroded pipe pictured on Exhibit 48B
20 and discussed on page 58 of Mr. Orr's Direct Testimony.

21 In addition, Mr. Orr's testimony cited several instances of Westover facilities and
22 NGDC facilities being improperly located in front of operable windows. I&E Statement 1
23 pp. 22 and 46. I have already contacted the pertinent NGDCs about the need to modify
24 these facilities, noting that Mr. Orr's testimony cited them as a safety concern. I was told
25 that I&E did not previously contact the NGDCs to raise these safety concerns, but the
26 NGDCs promised to look into the situation as a result of my contacting them.

27 I am advised by counsel that NGDCs are required to comply with the Federal
28 pipeline safety regulations, and I&E has authority to prosecute NGDCs for failing to do so.

1 The fact that I&E has not raised these same safety concerns with the responsible NGDCs
2 undermines the claim that these situations pose “major safety concerns.”
3

4 **Q. AT PAGE 66 OF HIS TESTIMONY, MR. ORR STATES “IN MY OPINION,**
5 **THERE IS A SUBSTANTIAL RISK TO THE TENANTS THAT RESIDE AT THE**
6 **APARTMENT COMPLEXES OWNED AND NOT PROPERLY MAINTAINED BY**
7 **WESTOVER.” PLEASE RESPOND.**

8 **A.** Again, Mr. Orr’s testimony should be given little weight because it is contrary to the
9 evidence and is intended to scare the Commission into asserting jurisdiction where it has
10 none. Westover has an excellent safety record at a number of apartment complexes and
11 commercial properties over an extended period of time. As I said at pages 3-4 of my Direct
12 Testimony, Westover has owned or operated gas facilities or equipment in Pennsylvania
13 since approximately 1965 without a single gas-related incident causing injury to persons
14 or property.

15 If we suspect a gas leak, we respond as quickly as possible to detect and remedy
16 the problem. We also take proactive steps to ensure safety, such as by contracting with
17 NGDCs for them to take over underground pipes and by redesigning our Systems so more
18 Westover Systems have virtually all of their gas piping inside a building. We hire qualified
19 contractors to perform work on our Systems. In short, it is not by “sheer good fortune”
20 that Westover has had an excellent gas safety record for decades.
21

1 **Q. AT PAGE 25 OF HIS TESTIMONY, MR. ORR CITES A 2016 INCIDENT IN**
2 **MARYLAND AS AN EXAMPLE OF THE DANGERS OF A GAS INCIDENT AT**
3 **AN APARTMENT COMPLEX. PLEASE RESPOND.**

4 **A.** In my opinion, it is significant that Mr. Orr does not cite a single example of a gas incident
5 causing personal injury or property at a Pennsylvania apartment complex – either before
6 or after Act 127 took effect. To me, this demonstrates that other existing regulatory
7 schemes, such as the Uniform Construction Code and municipal building codes, are doing
8 a good job of protecting public safety. The General Assembly did not intend Act 127 to
9 apply to apartment complexes because there was no regulatory gap that needed to be filled
10 by the Commission.

11

12 **CONCLUSION**

13 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

14 **A.** Yes. However, I reserve the right to supplement my testimony as additional issues or facts
15 arise during the course of this proceeding. Thank you.

WESTOVER EXHIBIT PQ-31 (CONFIDENTIAL)

WESTOVER EXHIBIT PQ-32 (CONFIDENTIAL)

WESTOVER EXHIBIT PQ-33

I&E
Attachment E

**ASSESSMENT OF THE NEED
FOR AN IMPROVED INSPECTION PROGRAM
FOR
MASTER METER SYSTEMS**

January 2002

**A Report of the
Secretary of Transportation to the Congress,
prepared pursuant to Section 108 of
Public Law 100-561**

FOREWORD

This report was prepared by the Volpe National Transportation Systems Center (Volpe Center), Research and Special Programs Administration (RSPA), U.S. Department of Transportation (U.S. DOT), Cambridge, Massachusetts, for the Office of Pipeline Safety (OPS), RSPA/U.S. DOT, Washington, D.C. Paul Zebe of the Volpe Center and Ralph Kubitz of OPS compiled the material for the report. Contributions to the report were also made by Lloyd Ulrich of OPS.

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LIST OF ACRONYMS & ABBREVIATIONS

CL&P	Connecticut Light and Power
LPG	Liquefied Petroleum Gas
MAOP	Maximum allowable operating pressure
MN OPS	Minnesota Office of Pipeline Safety
NAPSR	National Association of Pipeline Safety Representatives
NARUC	National Association of Regulatory Utility Commissioners
O&M	Operations and Maintenance
OH PUC	Ohio Public Utilities Commission
OPS	Office of Pipeline Safety, RSPA, U.S. DOT
OQ	Operator Qualification
psig	Pounds per square inch gauge
RSPA	Research and Special Programs Administration, U.S. DOT
SASC	Systems & Applied Sciences Corporation
TSI	Transportation Safety Institute, RSPA, U.S. DOT
U.S. DOT	U.S. Department of Transportation
U.S. HUD	U.S. Department of Housing and Urban Development
Volpe Center	John A. Volpe National Transportation Systems Center, RSPA, U.S. DOT

1. INTRODUCTION

1.1. BACKGROUND

Gas master meter systems are small intrastate gas distribution systems providing natural gas purchased from local gas utilities (or, rarely, gas transmission systems) to consumers in connection with the rental, leasing, or management of real property.¹ Gas master meter systems, of which there are thousands, operate in almost every state and supply natural gas for heating, cooking, and other uses to tens of thousands of homes and businesses. The systems can be found at a wide variety of locations, including trailer parks, public housing projects, shopping centers, and apartment complexes.

To ensure their safe operation, master meter systems, like other gas distribution systems, are regulated by the U.S. Department of Transportation's (U.S. DOT's) Office of Pipeline Safety (OPS) under the authority of Federal pipeline safety law.² Federal pipeline safety law allows states to assume responsibility for inspecting master meter systems and for enforcing the Federal regulations that apply to them by entering into cooperative agreements with the OPS. The OPS actively encourages states to do this by providing funds to states as an incentive under a Federal grant-in-aid program authorized by Federal pipeline safety law. As of the end of 1999, 42 states and the District of Columbia had assumed partial or full responsibility for their master meter systems. Inspection of the master meter systems in these states is the responsibility of the state pipeline safety authorities. Federal inspection, under OPS policy, is limited to systems not covered by state regulation and is conducted only when (1) an accident occurs, or (2) the OPS becomes aware of a safety concern.

The OPS and its state partners, as well as many others in government and the general public, have an abiding interest in ensuring the safety of the Nation's gas pipeline systems. A focus of that interest has been on the adequate inspection of gas pipeline system systems. Inspection is crucial to the efforts of safety regulators working to ensure that gas pipeline systems are being operated in a safe manner. Inspection gives safety regulators an opportunity to work with gas pipeline system operators to identify and correct problems before they can cause accidents, and this can be especially important for master meter systems.

There are a number of factors complicating the inspection of master meter systems. Arguably the most important is the large numbers of such systems. Currently, over eight thousand master meter systems are believed to be operating in the U.S. In contrast, probably less than 1,400 local natural gas

¹In addition to natural gas master meter systems, it might be noted that there are also water, electricity, and Liquefied Petroleum Gas (LPG) master meter systems. For the purposes of this study, the term "master meter system" will refer to a natural gas master meter system, unless otherwise indicated.

²49 U.S.C. 60101 et seq.

distribution companies are currently operating in the U.S.³ It is difficult for state and Federal inspectors to visit such a large number of operating entities on a regular basis.

A second factor, closely rivaling the first in importance, is that there is no easy way of identifying master meter systems. Safety regulators frequently must rely on local gas utilities to identify master meter systems. In many cases, local gas utilities do not have or keep that type of information. Furthermore, master meter operators often do not realize that they are subject to gas safety regulations, so they cannot be relied upon to identify themselves.

A third factor complicating inspection is that master meter systems, unlike local gas utilities, are frequently operated and maintained by people who are not gas pipeline professionals and who have, at best, only a sketchy and vague understanding of the Federal safety standards for the distribution of natural gas by pipeline as set forth in Part 192 of Title 49 of the *Code of Federal Regulations*. Some master meter operators reportedly do not realize that the local gas utilities supplying them with gas are not responsible for the safety and maintenance of their systems. As a consequence, inspectors must often spend a disproportionate amount of time with master meter systems to ensure their safety.

1.2. PURPOSE OF THIS STUDY

The purpose of this study is to assess the need for an improved inspection program for master meter systems. This is the obvious first step in any effort to ensure the safe operation of master meter systems, since inspection is the primary means used to identify problems.

This study was mandated by Congress in Section 108(c) of the Pipeline Safety Reauthorization Act of 1988,⁴ which directs the Secretary of Transportation to "...undertake a study to assess the need for an improved inspection program for master meter systems."⁵ The Act also directs that a report detailing the findings of that study be submitted to Congress, along with any recommendations for appropriate legislation that the Secretary of Transportation may wish to make.⁶

Additionally, Section 108(a) of the Pipeline Safety Reauthorization Act of 1988, in part, mandates that the master meter systems for which the states have not assumed regulatory responsibility (i.e., the systems for which the OPS retains regulatory responsibility) be inspected at least once every two years, but gives the Secretary of Transportation the option of reducing the frequency of inspection. This study provides information that can be used to ascertain whether the frequency of inspection can be reduced without compromising the safety of master meter systems.

³While master meter systems are local and distribute gas, they are not generally referred to or classed as "local distribution companies" or "local gas utilities."

⁴Public Law 100-561.

⁵See Section 108(c)(1).

⁶See Section 108(c)(2).

The focus of this study is on natural gas master meter systems. Liquefied petroleum gas (LPG) distribution systems are not considered. The OPS regards LPG systems, including LPG master meter systems, as a separate category of intrastate pipeline systems with somewhat different problems and concerns than natural gas master meter systems.

1.3. STRUCTURE OF THE REMAINDER OF THE REPORT

The remainder of this report is organized in the following manner. In Chapter 2, an overview of master meter systems is presented. Included in this chapter is a description of master meter systems, the definition of a master meter system contained in the Federal pipeline reporting requirements (49 CFR 191), an estimate of the number of systems currently in operation in the U.S., and an overview of the safety record of the systems. In Chapter 3, Federal and state regulation of the safety of master meter systems is surveyed. In Chapter 4, inspection and other activities undertaken by state and Federal pipeline safety regulators to ensure the safety of the systems are detailed. In Chapter 5, the need for improved inspection of master meter systems is examined. In Chapter 6, an alternative to an improved inspection program is reviewed and evaluated. Chapter 7 outlines the key findings of the report. Chapter 8 presents the report's recommendations. A selected bibliography listing the papers and publications used in preparing the report, a list of those contributing to the study, and three appendices conclude the report.

2. OVERVIEW OF MASTER METER SYSTEMS

2.1. INTRODUCTION

This chapter provides an overview of natural gas master meter systems. The purpose of the overview is to provide background information that will allow a better understanding of master meter systems and the associated safety concerns. In this chapter, master meter systems as a general concept and as defined in the Federal pipeline reporting requirements by the Office of Pipeline Safety (OPS) are described, salient information about master meter systems and their operation is presented, the number of master meter systems currently in operation is discussed, and the recent safety record of master meter systems is reviewed.

2.2. WHAT IS A MASTER METER SYSTEM?

A master meter system is a distribution system providing gas to consumers in conjunction with the rental, leasing, or management of real property.⁷ Master meter systems usually purchase product from the local gas utility, although occasionally a master meter system's supplier may be a transmission system.⁸ Master meter systems take their name from the "master meter" at the connection point between a master meter system and its supplier, which measures the amount of gas taken from the supplier by the system.⁹

A master meter system operator will either (1) sell the gas it purchases from its supplier directly to the consumer or (2) include the cost of the gas in the fee or charge assessed for the use of the real property by the consumer (for example, in rent or condominium fee). A master meter system may have sub-meters (i.e., meters for each consumer or for groups of consumers)¹⁰ for measuring consumption and allocating costs. Sub-meters are banned in some states.¹¹

Frequently, a master meter system obtains the gas that it distributes at a bulk rate discount. This discount will vary from utility to utility and from state to state, as well as over time, but it can be fairly substantial. In California in the early 1980s, for instance, Pacific Gas & Electric Co. was giving a 15

⁷Some condominium associations, cooperatives, and similar entities operate master meter systems as one of the management services provided to their members.

⁸A gas transmission system is a gas pipeline system used to transport natural gas from oil/gas fields or gas processing plants (which are generally located near oil/gas fields) to local gas distribution utilities.

⁹Master meters system that are not sub-metered are sometimes referred to as "centrally metered installations."

¹⁰Sub-meters at public housing projects are sometimes referred to as "check meters".

¹¹According to Seisler, p. 147, as of July 1978, 27 states had banned sub-meters. It is uncertain how this has changed since then.

percent discount to at least some master meter systems.¹² Some of the savings realized by a master meter system due to its purchase of gas at a bulk rate discount may be passed on to the system's customers. In some states, master meter systems are not allowed to charge final consumers more than was originally paid for the gas, and in those states the entire discount will be passed on.¹³ This, of course, will tend to discourage potential master meter operators from entering the business, which may have a safety impact, as well as an economic impact. Furthermore, it can induce existing operators to leave the business, which may also have both safety and economic impacts.

Master meter systems provide gas at a variety of different types of facilities. These include public housing projects, trailer parks, colleges and universities, campgrounds, apartment buildings and complexes, shopping malls, industrial parks, motels, golf courses, medical facilities, and churches. The category with the most gas master meter systems is apartment buildings and complexes, followed by trailer parks and public housing projects.

2.3. A MASTER METER SYSTEM AS DEFINED BY THE OPS

The safety of natural gas master meter systems is regulated under the statutory authority given to the Secretary of Transportation by Federal pipeline safety law and delegated by the Secretary to the Office of Pipeline Safety (OPS). For purposes of its safety regulations, the OPS in 49 CFR §191.3 defines a gas master meter system as follows:

Master Meter System means a pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.¹⁴

OPS policy is that the term "master meter system" applies only to gas distribution systems serving multiple buildings. It does not apply to gas distribution systems consisting entirely or primarily of interior piping located within a single building.¹⁵ Such systems, however, may be referred to as master meter

¹²U.S. DOT, "Exercise of Jurisdiction Over Master Meter Gas Operators," p. 24. The original source is cited as a letter from PG&E to Operators of Privately Owned Gas Distribution Systems in Mobile Home Parks, dated January 4, 1982.

¹³According to a telephone conversation on January 3, 2001, between Steve Pott, Colorado Public Utility Commission, and Paul Zebe, Volpe Center, this is the case currently in Colorado. In that state, the price that the master meter operator pays for gas is the maximum price that system customers can be charged. According to an e-mail on November 17, 2000, from Gary Hall, Kansas Corporation Commission, to Paul Zebe, Volpe Center, master meter operators in Kansas may not make a profit on the sale of natural gas.

¹⁴49 CFR §191.3.

¹⁵See U.S. DOT, "RSPA Responses to NAPSRS Resolutions," pp. 115-116 (Note: NAPSRS is the National Association of Pipeline Safety Representatives), which states, in part, that

systems by local utilities and utility regulators for rate purposes, as well as by some state gas pipeline safety regulators for safety regulation purposes.

Master meter systems consisting entirely or primarily of interior piping located within a single building are excluded by the OPS from its definition because

...such systems do not resemble the kinds of distribution systems to which Congress intended the Natural Gas Pipeline Safety Act to apply because of the absence of any significant amount of underground or external piping serving more than one building.¹⁶

In essence, the OPS regards such systems in the same way it regards the piping at a large commercial building or industrial plant.

It might be noted that it is OPS policy to exclude some piping in jurisdictional master meter systems (i.e., in master meter systems as defined by the OPS) from regulation.¹⁷ Specifically, interior piping in buildings that is "downstream" from the customers' meters, or the start of customer piping if there is no sub-metering, is not regulated by the OPS.¹⁸ Interior piping that is "upstream" from the customers' meters is subject to OPS regulation.¹⁹

2.4. SELECTED CHARACTERISTICS OF GAS MASTER METER SYSTEMS

A number of characteristics of master meter systems may impact the safety of the systems or the severity of consequences that would result if an accident occurred. Significant among these are the number of customers that a system serves, the length of underground or exterior piping, and system distribution pressure.

Even though the present definition of 'master meter system' does not refer specifically to the existence of exterior piping serving multiple buildings, the reference to a 'pipeline system for distributing gas within...a mobile home park, housing project, or apartment complex' must involve the distribution of gas through exterior or underground pipelines to more than one building. The phrase regarding exterior piping serving multiple buildings was not considered essential since the use of exterior or underground pipelines to distribute gas to more than one building is implicit in the language of the definition.

This is a continuation of the policy adopted by the OPS prior to the publication of the regulatory definition of a master meter system. [See OPS Advisory Bulletin 73-10, October 1973, or the May 1973 letter from Joseph Caldwell, then Director of OPS, to Wayne Carlson, Public Service Commission of Utah.]

¹⁶U.S. DOT, "RSPA Responses to NAPS Resolution," p. 116.

¹⁷This policy is followed by regulators in some of the states that cooperate with the OPS in the regulation of master meter systems. Regulators in other states, such as Connecticut, report that they cannot follow the policy. State law in these states does not allow them to deviate from the Federal pipeline safety regulations.

¹⁸Telephone conversation between Jim Thomas, Regional Director, Southwest Region, Office of Pipeline Safety, U.S. DOT/RSPA, and Paul Zebe, Volpe Center, January 1990.

¹⁹U.S. DOT, "RSPA Responses to NAPS Resolution," p. 116.

2.4.1. The Number of Customers

A master meter system generally does not serve many customers.²⁰ For instance, in Maryland, a typical master meter system is reported to currently serve about 284 units (customers).²¹ In Nevada, seven of the eight master meter systems in operation in that state are reported to have between approximately 100 and 275 customers.²²

2.4.2. The Length of Underground Piping

The length of master meter system underground piping varies considerably. It is generally not very long, however. The average length of the underground or exterior piping for master meter systems currently operating in Maryland, for example, is 2,764 feet.²³ This is short when compared to the average length of the underground distribution main piping operated by local gas utilities. In the U.S. in 1995 there were, according to the National Association of Regulatory Utility Commissioners (NARUC), approximately 1,350 gas utility operations²⁴ and, according to the American Gas Association (AGA), 935,082 miles of gas utility distribution mains.²⁵ Based on these figures, a gas utility in the U.S. has, on average, about 693 miles of distribution mains.

2.4.3. The Distribution Pressure

In general, the distribution pressure of master meter systems is very low. In Colorado, for example, state pipeline safety regulators report that the pressure is generally two pounds or less in most systems.²⁶ In contrast, local gas utilities generally operate at much higher distribution pressures.

²⁰U.S. DOT, "Exercise of Jurisdiction Over Master Meter Gas Operators," p. 3.

²¹E-mail from John Clementson, Pipeline Safety Engineer, Maryland Public Service Commission, to Paul Zebe, Volpe Center, November 27, 2000.

²²E-mail from Craig Steele, Nevada Public Service Commission, to Paul Zebe, Volpe Center, April 10, 2001.

²³E-mail from John Clementson, Pipeline Safety Engineer, Maryland Public Service Commission, to Paul Zebe, Volpe Center, November 27, 2000.

²⁴National Association of Regulatory Utility Commissioners (NARUC), *Utility Regulatory Policy in the United States and Canada, Compilation 1995-1996*, Washington, DC, 1996, Table 171, number of utilities by state. Some of the utilities operate in more than one state and therefore may have been counted more than once. Also, counts for some types of gas utilities in two states (Illinois and Nebraska) were unavailable, and counts of utilities in another two states (Alabama and New Jersey) were for prior years.

²⁵AGA, *Gas Facts*, 1996 edition (1995 data), p. 27.

²⁶Letter from Ernest Tronco, P.E., Gas Pipeline Safety Engineer, Colorado Public Utilities Commission, to Paul Zebe, Volpe Center, November 22, 1989.

Typically, the distribution pressure for a gas utility is 20 to 40 psig (pounds per square inch gauge).²⁷
The distribution pressure of master meter systems is also lower than the service line pressures found on

²⁷Telephone conversation between Lloyd Ulrich, OPS, and Paul Zebe, Volpe Center, September 11, 1990.

many local gas utility systems. The typical pressure in a local gas utility high pressure service line is between 2 and 10 psig, although it can be considerably higher.²⁸

2.5. THE NUMBER OF MASTER METER SYSTEMS CURRENTLY IN OPERATION

The exact number of jurisdictional master meter systems currently in operation in the U.S. is unknown. Exhibit 1 presents the best available information on the number of master meter systems in operation in the U.S. in 1999 by state. The information in the exhibit was obtained primarily from the annual submissions of state and other pipeline safety regulators to the OPS. Based on those submissions, there are at least seven thousand jurisdictional master meter systems currently operating in the U.S.²⁹ In total, there are approximately 8.4 thousand jurisdictional master meter systems presently in operation. This estimate was derived from the information contained in Exhibit 1.³⁰

For some states, the number of systems given in Exhibit 1 is the number of systems with "appreciable" underground or exterior piping downstream of the master meter, while for other states additional master meter systems are included. Those with appreciable underground or exterior piping downstream of the master meter are, of course, those meeting the OPS's definition of a master meter system and, as a consequence, are covered by the Federal gas pipeline safety regulations. State pipeline safety regulations in some cases cover additional master meter systems not covered by the Federal regulations. The state of Washington is one example of a state that uses a broader definition of master meter systems than used by the OPS.³¹ Utah is another example.³²

For some states, the number of systems given in Exhibit 1 excludes some jurisdictional master meter systems because the jurisdiction of some state pipeline regulators is limited. For example, California pipeline safety regulators only have jurisdiction over master meter systems at mobile home parks,³³ while Missouri pipeline safety regulators do

²⁸E-mail from Lloyd Ulrich, OPS, to Paul Zebe, Volpe Center, March 20, 2001.

²⁹This estimate was derived by summing the figures given in Exhibit 1 and rounding the result, 7,352, to the nearest thousand.

³⁰Values are presented in Exhibit 1 for master meter systems in 44 (88 percent) of the states. Assuming that the states for which there are no values are not significantly different from those for which there are, then a total estimate can be calculated by dividing 7,352, the sum of the figures given in Exhibit 1, by 0.88. This simplistic estimation approach ignores Puerto Rico and DC, as well as any under- or overreporting by the states. Because underreporting is considered more likely than overreporting, the estimate probably understates the actual number of systems.

³¹Letter from Douglas Kilpatrick, P.E., Pipeline Safety Director, Washington Utilities and Transportation Commission, to Paul Zebe, Volpe Center, December 1, 2000.

³²E-mail from Chris Hoidal, Regional Director, Western Region, Office of Pipeline Safety, U.S. DOT/RSPA, to Paul Zebe, Volpe Center, June 18, 2001.

³³Telephone conversation between Mahendra Jhala, Chief, Utilities Safety Branch, California Public Service Commission, and Paul Zebe, Volpe Center, December 19, 2000.

**EXHIBIT 1. NUMBER OF MASTER METER SYSTEMS IN
OPERATION AS OF DECEMBER 31, 1999**

State	Number	State/Other	Number
Alabama	93	Nebraska	2
Alaska	Unknown	Nevada	8
Arizona	1185	New Hampshire	3
Arkansas	200	New Jersey	57
California	2,704 ^a	New Mexico	219
Colorado	45	New York	Unknown ^d
Connecticut	0	North Carolina	21
Delaware	8	North Dakota	11
Florida	13 ^b	Ohio	49
Georgia	127	Oklahoma	168
Hawaii	Unknown	Oregon	3
Idaho	Unknown	Pennsylvania	Unknown
Illinois	22	Rhode Island	7
Indiana	52	South Carolina	8
Iowa	0	South Dakota	2
Kansas	28	Tennessee	59
Kentucky	106	Texas	776
Louisiana	147	Utah	472
Maine	0	Vermont	0
Maryland	62	Virginia	99 ^e
Massachusetts	Unknown	Washington	258
Michigan	0	West Virginia	198
Minnesota	4	Wisconsin	circa 30
Mississippi	74	Wyoming	0 ^f
Missouri	8 ^c	D.C.	0
Montana	24	Puerto Rico	Unknown

Notes:

- a. Only includes master meter systems at mobile home parks.
- b. Jurisdiction extends only to the furthest meter downstream. For master meter systems without submetering, this will be the master meter.
- c. Does not include master meter systems at public housing projects.
- d. Local distribution companies are responsible for all underground gas facilities up to building wall.
- e. Does not include master meter systems on Indian Reservations.

Sources of Information: Annual state/other agency filings with the Office of Pipeline Safety, U.S. Department of Transportation, and other information from state pipeline safety agencies.

not have jurisdiction over master meter systems operated by state housing authorities.³⁴ Additionally, some state pipeline safety regulators, such as those in Virginia, do not have jurisdiction over publicly owned utilities and by extension the master meter systems that they serve.³⁵

Master meter systems on Indian Reservations fall outside the jurisdiction of state and Federal pipeline safety regulators,³⁶ except when those systems are operated by outside contractors, rather than by residents of the reservations.³⁷ The same applies to master meter systems on military bases and other military facilities.³⁸

In 1979, there were an estimated 81 thousand natural gas master meter systems in operation in the U.S. This estimate was derived for the OPS by the Systems & Applied Sciences Corporation (SASC), based upon information obtained from gas utilities throughout the U.S.³⁹ SASC's estimates of the number of master meter systems by state are presented in Appendix A of this report.

With between 8 and 9 thousand master meter systems currently in operation, it appears that nearly 90 percent of all master meter systems in operation in 1979 have gone out of business.⁴⁰ The decline in the number of master meter systems since 1979 would appear, for the most part, to be the result of two factors. The first has been the desire of master meter system operators to make their gas customers accountable for the cost of the gas they consume. Master meter systems are often not sub-metered (as mentioned before, in many states this is illegal). When this is the case, consumers are not directly accountable for the cost of the gas they consume, but instead are only indirectly accountable through the rent paid to the landlord. Sometimes this can result in the landlord getting hurt financially, particularly when the price of gas is fairly volatile. Metering is needed to make the consumers accountable for the cost of the gas that they consume. The installation of sub-meters also costs money, however. To avoid this cost and to make the customers accountable, it appears some master meter system operators turned their systems over to their gas suppliers and went out of the gas

³⁴Telephone conversation between Michael Loethen, Missouri Public Service Commission, and Paul Zebe, Volpe Center, February 7, 2001.

³⁵Annual submission of Virginia for 1999 to the Office of Pipeline Safety.

³⁶E-mail from Jon Jacquot, Public Service Commission of Wyoming, to Paul Zebe, Volpe Center, March 21, 2001.

³⁷E-mail from Warren Miller, Central District, Office of Pipeline Safety, RSPA/U.S. DOT, to Paul Zebe, Volpe Center, June 22, 2001.

³⁸E-mail from Warren Miller, Central District, Office of Pipeline Safety, RSPA/U.S. DOT, to Paul Zebe, Volpe Center, June 22, 2001.

³⁹SASC, *An Analysis of Natural Gas Master Meter Systems (Definition & Program) From A Federal Perspective*. The SASC estimate of 81 thousand does not include the number of master meter systems in Hawaii or New Jersey. SASC was unable to derive estimates for Hawaii and New Jersey because it received no usable data on the number of master meter systems when it surveyed the utilities in those states.

⁴⁰It should be recognized that it is entirely possible the 81 thousand systems in existence in 1979 have all gone out of business, and the systems currently in operation are new systems that have started up since 1979.

distribution business.

The second factor contributing to the decline of master meter systems has been pressure applied on master meter operators and their gas suppliers by some state pipeline regulators, as well as by OPS regional personnel, to get (1) the operators to agree to turn their systems over to their suppliers and (2) the suppliers to agree to take over the systems from the operators. This has been an actively pursued goal of regulators in many states for years, and has reportedly been successful in many cases. The goal has been pursued primarily to help ensure the safety of those who obtain their gas from the master meter systems. This will be discussed in greater detail later in this report. Some of the pressure, it should be noted, has probably resulted from a concern by price regulators that master meter systems were charging their customers (or could potentially charge their customers) too much for natural gas.

2.6. THE SAFETY RECORD OF MASTER METER SYSTEMS

The safety record of master meter systems -- the violations of the Minimum Federal Safety Standards (i.e., 49 CFR Part 192) that are found during inspections and the historical incident record for the systems -- provides an indication of the types and magnitude of problems that master meter systems face.

2.6.1. Violations

Inspections of master meter systems by Federal and state inspectors often turn up violations of the Minimum Federal Safety Standards. Exhibit 2 identifies the most common violations and problems found by inspectors at master meter systems. As shown in the exhibit, there is considerable variation among the states with respect to the most common violations and problems found by pipeline safety inspectors. Problems relating to corrosion control, cathodic protection, leak surveys, emergency plans, and records preparation and maintenance are some of the more frequently cited violations.

Information on the numbers of violations and on the relative frequency of the types of violations found by inspectors is not readily available for the entire country. This information is available, however, for a few states.

With respect to numbers of violations, the situation in Arkansas may not be atypical. State pipeline regulators in Arkansas report an average of two violations per inspection.⁴¹ This appears fairly consistent with the situation in other states. Kansas, for instance, has inspected an average of 33 master meter operators per year and has found an average of 79 violations per

⁴¹Letter from Don Martin, Chief of Pipeline Safety, Arkansas Public Service Commission, Utilities Division, to Paul Zebe, Volpe Center, Nov. 28, 2000.

EXHIBIT 2. THE MOST COMMON VIOLATIONS/PROBLEMS FOUND DURING INSPECTIONS OF MASTER METER SYSTEMS

State	Violations/Problems
Alabama	Low cathodic protection measurements
Alaska	No information
Arizona	Leak surveys, valve maintenance, mapping, training, odor checks, cathodic protection, atmospheric corrosion
Arkansas	§192.355--customer meters and regulators: protection from damage §192.463--External corrosion control: cathodic protection §192.615--Emergency plans §192.723--Distribution systems: leakage surveys §192.727--Abandonment or deactivation of facilities
California	No information
Colorado	No information
Connecticut	No master meter systems
Delaware	Mostly record maintenance related
Florida	Corrosion control and failure to lock meters where gas service has been interrupted or discontinued
Georgia	§192.465--External corrosion control: monitoring §192.723--Distribution systems: leakage surveys
Hawaii	No information
Idaho	No information
Illinois	No typical probable violation, but most problems are related to record keeping and the operator's knowledge of procedures
Indiana	Insufficient records to show compliance
Iowa	No master meter systems
Kansas	§192.465--External corrosion controls, monitoring §192.603--General provisions §192.615--Emergency plans §192.625--Odorization of gas §192.739--Pressure limiting and regulating stations: inspection and testing Kansas rules relating to leak surveys and valve maintenance
Kentucky	§192.721--Distribution system patrolling §192.727--Distribution valve maintenance §192.465--External corrosion controls, monitoring
Louisiana	Maximum allowable operating pressure, cathodic protection, and leak surveys
Maine	No master meter systems
Maryland	Key valves testing, hazards of gas notices, and emergency plan training

Massachusetts	No information
---------------	----------------

EXHIBIT 2. (CONT.)

State	Violations/Problems
Michigan	No master meter systems
Minnesota	Meter set support, Maxitrol regulators, emergency response liaison, emergency plan, operation and maintenance plan, external corrosion control, atmospheric corrosion control, public education, line marker and warning signs, and depth of cover
Mississippi	Leak repairs
Missouri	No information
Montana	Inspection program just getting established
Nebraska	Inadequate operations and maintenance manuals
Nevada	Inadequate operations and maintenance manuals, liaison with public officials, public education, cathodic protection
New Hampshire	Leak surveys, corrosion control, and education are problem areas
New Jersey	Cathodic protection O&M training
New Mexico	Updating O&M plans
New York	Inactive services
North Carolina	No major problems with master meter systems
North Dakota	No information
Ohio	O&M plan, emergency plan, leakage surveys, critical valve inspection, and mapping
Oklahoma	Lost O&M and records
Oregon	Cathodic protection, atmospheric corrosion, and various problems relating to O&M and emergency plans
Pennsylvania	Lack of operating and maintenance manuals, including record keeping as required under 49 CFR Part 192
Rhode Island	O&M plans, emergency plans, cathodic protection, leak surveys, atmospheric protection of aboveground piping, key valve maintenance
South Carolina	Only minor problems
South Dakota	Lack of written procedures and adequate record keeping
Tennessee	Leakage survey, cathodic protection, valve maintenance, record keeping
Texas	Repair and construction; design, installation, maintenance and inspection of pressure control equipment and corrosion facilities; testing; adequate operation, maintenance and emergency plans; establishing MAOP (maximum allowable operating pressure); maintenance and inspection tasks, such as patrolling, leak surveys, and inspection of valves
Utah	Inspection program just getting established
Vermont	No information

Virginia	Corrosion control procedures, monitoring, and records; O&M and emergency plans; MAOP; odorization; and leakage surveys
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EXHIBIT 2. (CONT.)

State	Violations/Problems
Washington	O&M plans, emergency plans, mapping and records, leak surveys, aboveground pipe maintenance, cathodic protection, records, overpressure protection, odorization, valve maintenance, non-participation in a locator service
West Virginia	Written documentation and records, and maintenance
Wisconsin	Because most systems are only being inspected for the first time, few safety requirements are being fully met by operators
Wyoming	No master meter systems
D.C.	No master meter systems
Puerto Rico	No information

Sources of information: Various state regulatory agencies; OPS Eastern Regional Office; annual agency filings with the Office of Pipeline Safety, U.S. DOT.

year, or little over 2 violations per inspected operator.⁴² Texas, which has performed 1,975 master meter system evaluations since January 1, 1995, has found a total of 5,627 violations, or an average of nearly 3 violations per evaluation.⁴³ Kentucky inspected 54 master meter operators in 1999⁴⁴ and found 59 violations,⁴⁵ an average of a little over 1 violation per inspected operator.

With respect to the relative frequency of the types of violations found during inspections, information is readily available for Arkansas and Maryland. The situations in Arkansas and Maryland, while in many ways similar, are by no means identical. This may be the result of a number of factors including the mix of types of master meter operators in the two states. For instance, master meter systems at trailer parks may be much more common in one state than the other, and master meter systems at trailer parks may typically experience a different set of problems than those found elsewhere. Another possibility is that the proportion of newly discovered master meter systems to previously identified systems may be different in the two states. Newly discovered systems would appear to be more likely to have problems than previously identified systems, all other things equal, because their operators are typically unacquainted with the requirements of the Minimum Federal Safety Standards.

In Arkansas from 1995 through 1999, state pipeline safety inspectors found 1,148 violations. Of those, 16 percent were related to leakage surveys, 13 percent were related emergency plans, 13 percent were related to cathodic protection for external corrosion, 12 percent were related to protection of meters from damage, 12 percent were related to abandonment or deactivation of facilities, 8 percent were related to general corrosion control, 8 percent were related to general atmospheric corrosion control, and the remaining 18 percent were related to a variety of other conditions.⁴⁶

In Maryland from 1995 through 1999, 92 violations were found by state pipeline safety inspectors. Of those, 23 percent were related to testing key valves, 21 percent were related to hazards of gas notice, 17 percent were related to emergency plan training, 13 percent were related to checking corrosion protection readings, 11 percent were related to leak surveys, 5 percent were related to checking rectifiers, 3 percent were related to remedial action, 2 percent were related to lack of procedural manuals, 2 percent were related to service vents, 1 percent were related to retention of records, and 1 percent were related to condition of exposed pipe.

⁴²E-mail from Gary Hall, Kansas Commerce Commission, to Paul Zebe, Volpe Center, Nov. 17, 2000.

⁴³E-mail from Mary McDaniel, Texas Railroad Commission, to Paul Zebe, Volpe Center, Jan. 19, 2001.

⁴⁴Annual filing with the OPS for 1999 by the Kentucky Public Service Commission.

⁴⁵Letter from Eddie B. Smith, Gas Branch, Division of Engineering, Kentucky Public Service Commission, to Paul Zebe, Volpe Center, Nov. 14, 2000.

⁴⁶Letter from Don Martin, Chief of Pipeline Safety, Arkansas Public Service Commission, Utilities Division, to Paul Zebe, Volpe Center, Nov. 28, 2000.

2.6.2. The Incident Record

Information on the number of master meter system incidents is incomplete. This is mainly because master meter incidents are not always identified as such in incident reports and incident databases. As a consequence, incident information is available for the master meter systems in some, but not all, states. Exhibit 3 presents readily available information on master meter incidents from 1995 through 1999 that resulted in a death, a serious injury (i.e., one requiring a hospital stay), or property damage of \$50,000 or more.

As shown in Exhibit 3, complete incident information is available for the five-year period for master meter systems in 37 states. In these 37 states during the five-year period, there were 2 master meter system incidents, which resulted in 2 injuries and over \$200,000 of property damage. Of the 2 master meter incidents in the 37 states, 1 resulted from corrosion and 1 resulted from construction/operating error.

In comparison, the same 37 states during the same five-year period experienced 290 gas distribution system incidents, which resulted in a death, injury, or \$50,000 or more in property damage. In total, those incidents resulted in 45 deaths, 218 injuries, and \$53,165,561 in property damage. Of the 290 gas utility system incidents in the 37 states, 12 (or 4 percent) were the result of corrosion and 11 (or 4 percent) were construction/operating error. The remaining 267 (92 percent) were the result of damage by outside forces, accidentally caused by the operator, or the result of some other cause.⁴⁷

⁴⁷U.S. DOT, Office of Pipeline Safety, natural gas distribution incident data, Office of Pipeline Safety web site (ops.dot.gov), March 2001.

**EXHIBIT 3. THE INCIDENT RECORD OF MASTER METER SYSTEMS,
1995-1999^a**

State	Incidents	Deaths	Injuries	Property Damage
Alabama	0	0	0	\$0
Alaska	unk	unk	unk	unk
Arizona	0	0	0	\$0
Arkansas	1 ^b	0	0	>\$100,000
California	unk	unk	unk	unk
Colorado	0	0	0	\$0
Connecticut	na	na	na	na
Delaware	0	0	0	\$0
Florida	0	0	0	\$0
Georgia	0	0	0	\$0
Hawaii	unk	unk	unk	unk
Idaho	unk	unk	unk	unk
Illinois	0	0	0	\$0
Indiana	0	0	0	\$0
Iowa	na	na	na	na
Kansas	0	0	0	\$0
Kentucky	0	0	0	\$0
Louisiana	0	0	0	\$0
Maine ^d	na	na	na	na
Maryland	0	0	0	\$0
Massachusetts	unk	unk	unk	unk
Michigan	na	na	na	na
Minnesota	0	0	0	\$0
Mississippi	1 ^b	0	1	>\$100,000
Missouri	0	0	0	\$0
Montana	0	0	0	\$0
Nebraska	0	0	0	\$0
Nevada	0	0	0	\$0
New Hampshire	0	0	0	\$0
New Jersey	0	0	0	\$0
New Mexico	0	0	0	\$0
New York	0	0	0	\$0
North Carolina	0	0	0	\$0

North Dakota	0	0	0	\$0
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EXHIBIT 3. (CONT.)

State	Incidents	Deaths	Injuries	Property Damage
Ohio	0	0	0	\$0
Oklahoma	0	0	0	\$0
Oregon	0	0	0	\$0
Pennsylvania	unk	unk	unk	unk
Rhode Island	0	0	0	\$0
South Carolina	0	0	0	\$0
South Dakota	0	0	0	\$0
Tennessee	0	0	0	\$0
Texas	<10 ^b	unk	unk	unk
Utah	0	0	0	\$0
Vermont	0	0	0	\$0
Virginia	0	0	0	\$0
Washington	0 ^c	0	0	\$0
West Virginia	0	0	0	\$0
Wisconsin ^d	na	na	na	na
Wyoming	na	na	na	na
D.C.	na	na	na	na
Puerto Rico	unk	unk	unk	unk

Key:

- a Incident Definition: A release of gas from a pipeline and at least one of the following: (1) death, (2) injury requiring in-patient hospitalization, or (3), property damage valued at \$50,000 or more.
- b Incident causes: Arkansas--construction/operating error
Mississippi--external corrosion
Texas--various
- c Known incidents; it is possible that incidents did occur during the time period. This may apply to incident information from other states, as well.
- d Safety jurisdiction assumed between 1995 and 1999.
- unk Unknown
- na Not applicable--no gas master meter systems in operation during period
- > Greater than
- < Less than

Sources of information: State pipeline regulators; State filings with the U.S. Department of Transportation.

3. REGULATORY AUTHORITY OVER THE SAFETY OF MASTER METER SYSTEMS

3.1. INTRODUCTION

Regulatory authority over master meter systems is vested by the Federal pipeline safety law⁴⁸ with the U.S. Department of Transportation (U.S. DOT) and, by delegation, with the OPS. The law permits the states to assume jurisdiction and take responsibility for inspection and enforcement of intrastate pipeline systems, including master meter systems. The OPS actively encourages the states to assume jurisdiction over master meter systems because the OPS considers states "better equipped to inspect and otherwise deal with these localized gas distribution systems,"⁴⁹ and because it was never the intention of Congress or "the Federal approach to budgeting and resources" that the Federal government take permanent responsibility for intrastate distribution systems, including master meter systems.⁵⁰ The OPS exercises jurisdiction only over those master meter systems for which states have not assumed responsibility.

The reporting and safety requirements applicable to master meter systems are contained in Parts 191 and 192 of Title 49 of the *Code of Federal Regulations* (CFR). Part 191 details the incident reports required, while Part 192, the Minimum Federal Safety Standards, details the mandated minimum safety requirements that must be complied with by the systems. States that assume jurisdiction over master meter systems may impose safety standards that are more stringent than the Federal safety standards, but those standards must not be inconsistent with the Federal standards.⁵¹ The safety and reporting requirements for master meter systems are similar, but not identical, to those for local gas distribution systems (i.e., local gas utilities).

Master meter systems, like local gas utilities, are required to do such things as provide training and written instruction for their staff, prepare written procedures to ensure the safe operation of the system and to "minimize the hazards resulting from natural gas pipeline emergencies," and keep records of inspection and testing.⁵²

In addition, master meter operators, like gas distribution system operators, are required to develop written Operation and Maintenance (O&M) Plans. The provisions that these O&M plans must address are slightly different for master meter systems than for local gas utilities. Specifically, the odorization provision is different, and there are several other provisions that master meter operators

⁴⁸U.S.C. 60101 *et seq.*

⁴⁹U.S. DOT, "Exercise of Jurisdiction Over Master Meter Gas Operators," p. 3.

⁵⁰U.S. DOT, "Exercise of Jurisdiction Over Master Meter Gas Operators," p. 18.

⁵¹U.S. DOT, "Exercise of Jurisdiction Over Master Meter Gas Operators," p. 3.

⁵²U.S. DOT, *Guidance Manual for Operators of Small Gas Systems*, p. I-1.

will probably not need to include in their plans because they address situations or conditions not generally found on master meter systems.⁵³

In addition to an O&M Plan, master meter systems, like local gas distribution systems, must have written Emergency Plans that address emergency response procedures. The Emergency Plan may be included as part of the O&M Plan; however, this need not be the case. The provisions in the O&M and Emergency Plans must be consistent with Federal (and, where applicable, state) standards and requirements and with the actual procedures and practices of the system.⁵⁴

Master meter operators are required to provide telephonic notification whenever there is a release of natural gas that results in a death, serious injury, or property damage of \$50,000 or more, or that is considered significant by the operator. Unlike local gas distribution systems, they are not required to file annual reports or written incident reports with the OPS.⁵⁵ (State rules, however, may require that both be filed with the state.) They are also not required to develop written damage prevention programs.⁵⁶ (Again, state rules may require this.) In addition, employees of master meter systems are not subject to the drug testing requirements of 49 CFR Part 199.⁵⁷

3.2. STATE EXERCISE OF JURISDICTION

States may assume jurisdiction over the master meter systems operating within their boundaries. To assume jurisdiction, a state agency must either (1) be annually certified by the U.S. DOT in accordance with Section 60105 of Title 49 of the U.S. Code⁵⁸ or (2) enter into an agreement with the U.S. DOT in accordance with Section 60106 of Title 49 of the U.S. Code.⁵⁹ The text of both of these sections can be found in Appendix B. States certified under Section 60105 take responsibility for both inspection and enforcement, while states under a Section 60106 agreement take responsibility for inspection and leave the responsibility for enforcement with the OPS.

States are encouraged by the OPS to assume jurisdiction over their master meter systems. The OPS provides the states with financial incentives to take responsibility for their pipeline systems through the

⁵³U.S. DOT, *Guidance Manual for Operators of Small Gas Systems*, pp. VIII-1 to VIII-21.

⁵⁴U.S. DOT, *Guidance Manual for Operators of Small Gas Systems*, pp. VIII-1 to VIII-33.

⁵⁵U.S. DOT, *Guidance Manual for Operators of Small Gas Systems*, pp. VIII-34, VIII-37.

⁵⁶49 CFR 192.614(e)(1).

⁵⁷U.S. DOT, *Guidance Manual for Operators of Small Gas Systems*, p. I-1.

⁵⁸U.S. Code, Title 49, Section 60105, as amended.

⁵⁹U.S. Code, Title 49, Section 60106, as amended.

State Pipeline Safety Grants program.⁶⁰

At present, 43 states and the District of Columbia participate with the OPS in the regulation of the safety of master meter systems. Most states have assumed regulatory jurisdiction over master meter systems under Section 60105 certifications. Over the years, a few states have chosen to enter into 60106 agreements with the U.S. DOT. Currently, Delaware is the only state whose master meter system responsibility is covered by a 60106 agreement with the OPS. States can surrender jurisdictional authority if they so choose.

Exhibit 4 identifies those states that had regulatory jurisdiction as of December 31, 1999, along with the responsible state agencies. Exhibit 5 presents a map showing the states with and without jurisdiction. In addition, the map identifies those states in which there are no master meter systems.

To ensure that state inspection of pipeline facilities, including master meter systems, and state enforcement actions are both appropriate and adequate, the OPS, through its Regional Offices, regularly monitors the state pipeline safety programs. As part of this effort, the OPS annually reviews state inspection documentation (i.e., completed inspection forms and supporting documents) and enforcement actions. It also periodically observes state inspectors in the field. Any inspection or enforcement problems observed by the OPS are called to the attention of the inspectors or, where appropriate, the state regulatory agency.

To help ensure the quality of the state pipeline inspection program, the OPS requires that all state pipeline inspectors complete a nine to ten course training program over a three-year period at the U.S. Department of Transportation's Transportation Safety Institute (TSI) in Oklahoma City. The OPS also encourages the states to send their inspectors to TSI periodically for refresher courses to help them keep up with changes in pipeline regulations.

3.3. FEDERAL EXERCISE OF JURISDICTION

The OPS exercises jurisdiction over master meter systems only in cases where no state agency has assumed jurisdiction. Where it has jurisdiction, it is OPS policy to inspect master meter systems only when there has been an accident or when the OPS becomes aware of a safety concern.⁶¹ The OPS can become aware of a safety concern through a variety of means, including complaints from members of the general public, reports of problems by state pipeline regulators, or observations made during previous inspections.

Currently, the OPS exercises full jurisdiction over master meter systems, if any, in Alaska, Hawaii, Idaho, Michigan, Vermont, Massachusetts, Pennsylvania, and Puerto Rico. It also is responsible for

⁶⁰See U.S. Code, Title 49, Section 60107, as amended.

⁶¹U.S. DOT, "Exercise of Jurisdiction Over Master Meter Gas Operators," p. 13; telephone conversation between Jeff Stahoviak, Western Regional Office, Office of Pipeline Safety, U.S. DOT/RSPA, and Paul Zebe, October 25, 2000.

enforcement activities in Delaware. In addition, the OPS is responsible in states

EXHIBIT 4. REGULATORY JURISDICTION OVER THE SAFETY OF MASTER METER SYSTEMS BY STATE AS OF DECEMBER 31, 1999

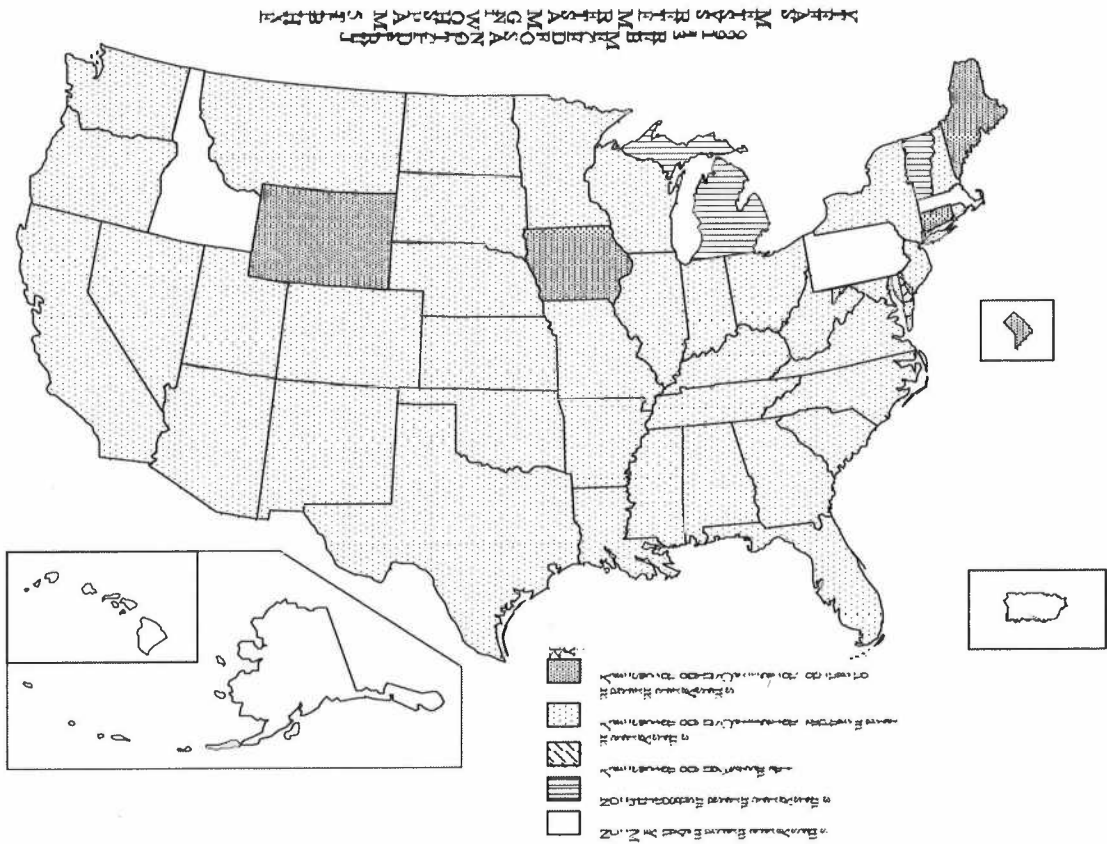
State	Jurisdiction?	Agency	State	Jurisdiction?	Agency
Alabama	Yes	PSC	Nebraska	Yes	SFM
Alaska	No	--	Nevada	Yes	PUC
Arizona	Yes	CC	New Hampshire	Yes	PUC
Arkansas	Yes	PSC	New Jersey	Yes	BPU
California	Yes	PUC	New Mexico	Yes	SCC
Colorado	Yes	PUC	New York	Yes	PSC
Connecticut	Yes	DPUC	North Carolina	Yes	UC
Delaware	Yes	PSC	North Dakota	Yes	PSC
Florida	Yes	PSC	Ohio	Yes	PUC
Georgia	Yes	PSC	Oklahoma	Yes	CC
Hawaii	No	--	Oregon	Yes	PUC
Idaho	No	--	Pennsylvania	No	--
Illinois	Yes	CC	Rhode Island	Yes	DPUC
Indiana	Yes	URC	South Carolina	Yes	PSC
Iowa	Yes	UB	South Dakota	Yes	PUC
Kansas	Yes	CC	Tennessee	Yes	RA
Kentucky	Yes	PSC	Texas	Yes	RRC
Louisiana	Yes	DNR	Utah	Yes	DC
Maine	Yes	PUC	Vermont	No	--
Maryland	Yes	PSC	Virginia	Yes	SCC
Massachusetts	No	--	Washington	Yes	UTC
Michigan	No	--	West Virginia	Yes	PSC
Minnesota	Yes	DPS	Wisconsin	Yes	PSC
Mississippi	Yes	PSC	Wyoming	Yes	PSC
Missouri	Yes	PSC	D.C.	Yes	PSC
Montana	Yes	PSC	Puerto Rico	No	--

Key:

BPU	=Board of Public Utilities	PSC	= Public Service (or Safety) Commission
BRC	=Board of Regulatory Commissioners	PUC	= Public Utility(ies) Commission
CC	=Corporation (or Commerce) Commission	RA	= Regulatory Authority
DC	=Department of Commerce	RRC	= Railroad Commission
DNR	=Department of Natural Resources	SCC	= State Corporation Commission
DPS	=Department of Public Service (or Safety)	SFM	= State Fire Marshal
DPU	=Department (or Division) of Public Utilities	UB	= Utilities Board
DPUC	=Department of Public Utility Control or Division of Public Utilities and Carriers	UC	= Utilities Commission
		URC	= Utility Regulatory Commission

UTC = Utilities and Transportation Commission

Sources of information: Various state agencies; state filings with OPS



with Section 60105 certifications or Section 60106 agreements for master meter systems that those states do not oversee. For example, California state pipeline safety regulators only have responsibility for master meter systems at trailer parks, so the OPS is responsible for all other natural gas master meter systems in that state.⁶²

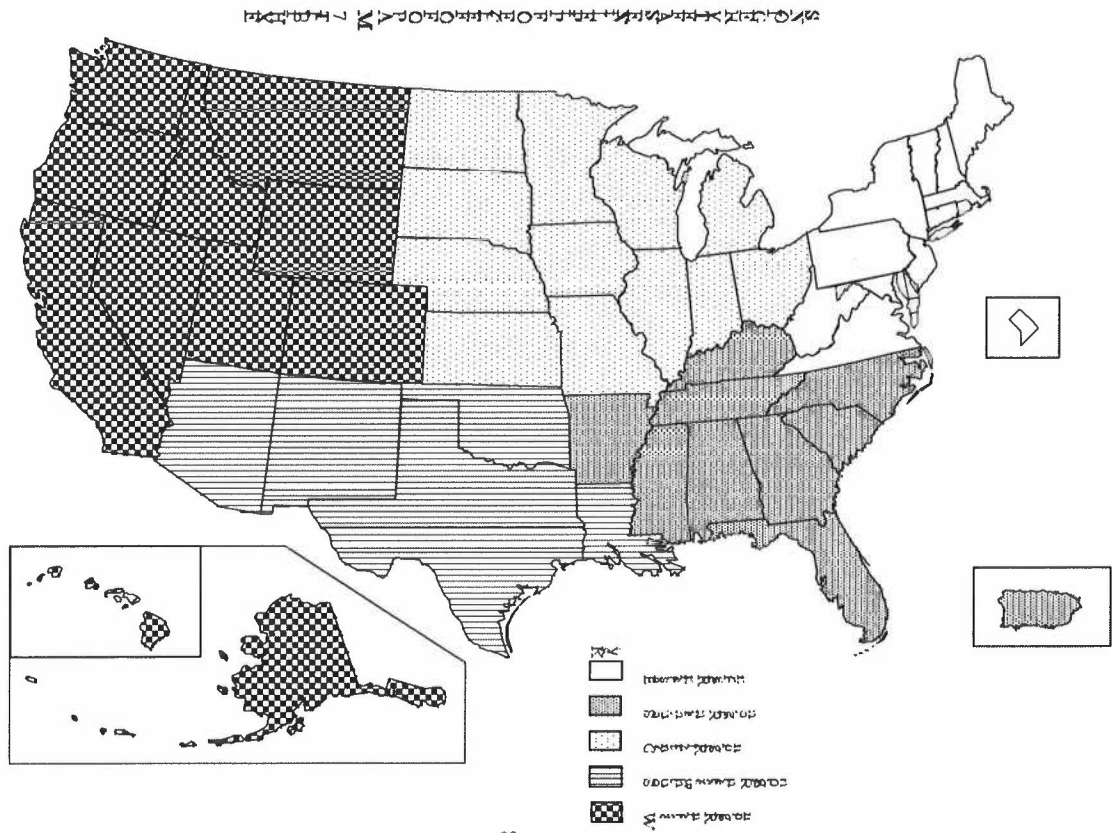
Federal inspection and enforcement is undertaken primarily by the OPS's five Regional Offices. These offices, the Eastern, Southern, Central, Southwestern, and Western, are located in Washington, D.C.; Atlanta, Georgia; Kansas City, Missouri; Houston, Texas; and Lakewood, Colorado, respectively. Exhibit 6 lists the states served by each of the Regional Offices and Exhibit 7 presents a map of the OPS regions.

⁶²E-mail from Lloyd Ulrich, Office of Pipeline Safety, RSPA/U.S. DOT, to Paul Zebe, Volpe Center, August 16, 2001.

EXHIBIT 6. STATES SERVED BY THE OPS REGIONAL OFFICES

Regional Office	States (and Others) Served
Eastern.....	Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia
Southern.....	Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, and Tennessee
Central.....	Iowa, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin
Southwestern.....	Arizona, Louisiana, New Mexico, Oklahoma, and Texas
Western.....	Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

6



4. ONGOING EFFORTS TO IMPROVE/ENSURE THE SAFETY OF MASTER METER SYSTEMS

4.1. INTRODUCTION

The states and the Federal government are currently engaged in a number of activities aimed at improving or ensuring the safety of master meter systems in the U.S. The primary activity undertaken to improve or ensure the safety of the systems is inspection. Other activities undertaken by regulators include identifying master meter systems, providing operators of master meter systems with training, encouraging master meter system operators to transfer their systems to gas suppliers, and encouraging gas suppliers to accept operational responsibility or ownership of master meter systems.

4.2. INSPECTION

Inspection is one method used by both Federal and state safety regulators to ensure and improve the safety of the master meter systems. Exhibit 8 provides information on the frequency of inspection of master meter systems by both Federal and state inspectors. Exhibit 9 is a map showing the frequency of master meter system inspection by state. The states are categorized according to the length of time between each inspection.

As shown in the two exhibits, in 19 states the frequency of inspection of master meter systems is at least once a year. Inspection occurs most frequently in Delaware, where state regulators report that they inspect several times a year. In seven states, the frequency of inspection is at least once every two years. Eight states inspect at least once every three years. Two states, Virginia and California, perform their inspections at intervals greater than three years. Six states and D.C. have no master meter systems. In two states, Montana and Utah, the responsibility for master meter systems has recently been assumed by state pipeline regulators, and regular inspection programs have not commenced. Georgia inspects systems consisting of steel pipe on an annual basis and inspects those consisting of plastic pipe less frequently. In all other states and in Puerto Rico, inspection is the responsibility of the OPS and is irregular.

It would seem that in those states with a greater frequency of inspection, safety would be enhanced and the number of incidents would be less. Unfortunately, it is not possible to test this hypothesis, because information on master meter system incidents is not adequate for that purpose.

The number of state inspections performed at master meter systems in 1999 is presented in Exhibit 10. Master meter systems are sometimes composed of multiple parts, or "inspection units." This can occur when the system is large, or when the system has several discrete pieces that are not collocated. As shown in Exhibit 10, in 1999 a total of 3,092 master meter systems were inspected by the states. This appears to include multiple inspections of some

EXHIBIT 8. FREQUENCY OF INSPECTION OF MASTER METER SYSTEMS

State	Responsibility for Inspection	Frequency of Inspection
Alabama	State	Annually (at least)
Alaska	Federal	Irregular. No state inspection. Federal inspection in case of an incident, complaint, or OPS learns of a safety concern.
Arizona	State	Annual--Schools, child day care centers, retirement care centers, hospitals, churches, health care facilities, rehabilitation centers Biennial--Prisons, apartments, mobile home parks, RV centers, condos, businesses, campgrounds, industrial site, motels, hotels.
Arkansas	State	All master meter systems inspected at 12 to 24 month intervals
California	State	Less than once every three years, on average
Colorado	State	Annually
Connecticut	State	No master meter systems
Delaware	State	One to three times per year
Florida	State	Systems under PSC jurisdiction are evaluated annually. Systems not under direct PSC jurisdiction are required to be leak surveyed annually by the utilities supplying those systems with their natural gas.
Georgia	State	Systems with steel pipe may be inspected annually; systems that have all plastic pipe are inspected less frequently; based on annual reports to OPS,
Hawaii	Federal	Irregular. No state inspection. Federal inspection in case of an incident, complaint, or OPS learns of a safety concern.
Idaho	Federal	Irregular. No state inspection. Federal inspection in case of an incident, complaint, or OPS learns of a safety concern.
Illinois	State	Annually, on average
Indiana	State	Inspected annually
Iowa	State	No master meter systems
Kansas	State	Inspected annually
Kentucky	State	Inspections occur on a three-year cycle
Louisiana	State	At least once per year
Maine	State	No master meter systems
Maryland	State	Once every 15 months
Massachusetts	Federal	Irregular. No state inspection. Federal inspection in case of an incident, complaint, or OPS learns of a safety concern.
Michigan	Federal	No master meter systems
Minnesota	State	At least once each calendar year
Mississippi	State	Once per year

Missouri	State	Currently inspected annually
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EXHIBIT 8. (CONT.)

State	Responsibility for Inspection	Frequency of Inspection
Montana	State	Not yet established
Nebraska	State	Once every two to three years
Nevada	State	Once every two years
New Hampshire	State	Once per year is goal
New Jersey	State	Once per year
New Mexico	State	At least once comprehensively every 36 months
New York	State	Annually or at least every other year
North Carolina	State	Inspected annually
North Dakota	State	Inspected annually
Ohio	State	Biennially
Oklahoma	State	Inspections occur on a one to three year cycle
Oregon	State	Try to inspect annually; maximum time allowed between inspections is three years; longest actual time between inspections is two years
Pennsylvania	Federal	Irregular. No state inspection. Federal inspection in case of an incident, complaint, or OPS learns of a safety concern.
Rhode Island	State	Once a year
South Carolina	State	Varies, but all sites are inspected at least once per year
South Dakota	State	Once each calendar year
Tennessee	State	Annually
Texas	State	Systems are scheduled for evaluation every three years
Utah	State	Not yet established
Vermont	Federal	No master meter systems
Virginia	State	Inspections are on a five year cycle
Washington	State	An average of 168 master meter system inspections per year have occurred in the past five years
West Virginia	State	Once every 2½ years or sooner if deemed necessary Newly recognized master meter systems inspected as soon as practicable after identification
Wisconsin	State	Once every three years
Wyoming	State	No master meter systems
D.C.	Local	No master meter systems
Puerto Rico	Federal	Irregular. No local inspection. Federal inspection in case of an incident, complaint, or OPS learns of a safety concern.

Sources of information: Various state agencies; annual agency filings with the Office of Pipeline Safety, U.S. DOT.

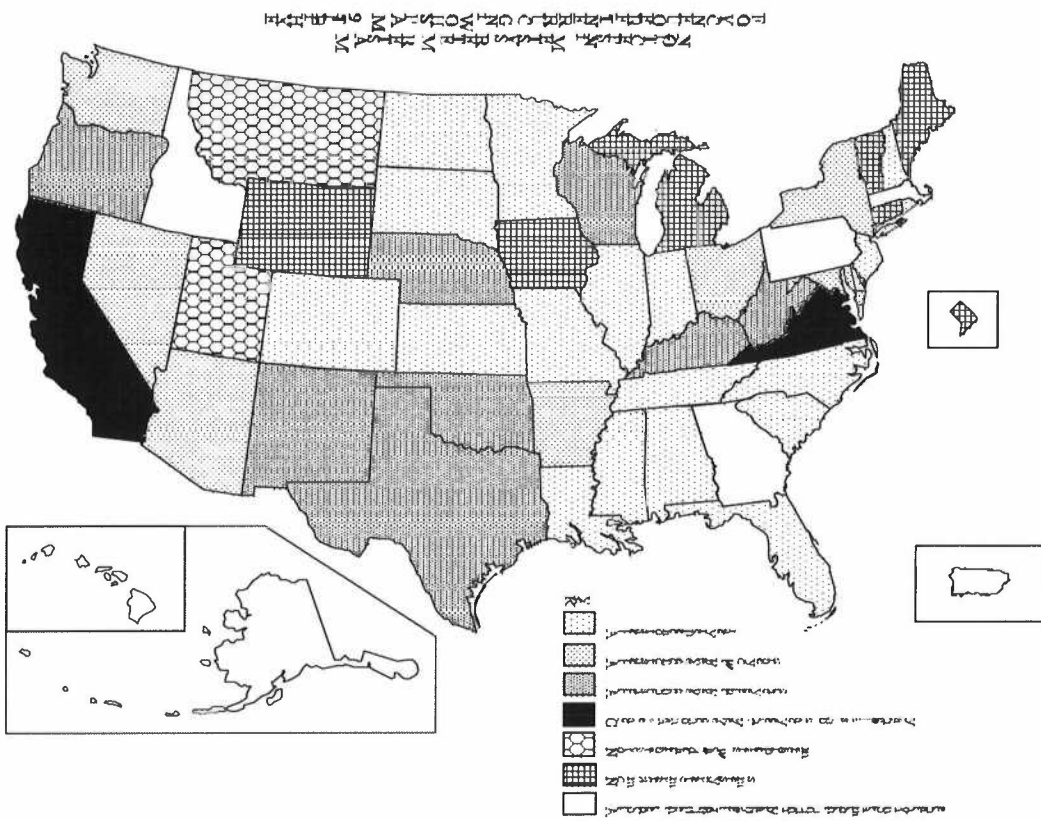


EXHIBIT 10. INSPECTIONS OF MASTER METER SYSTEMS IN 1999

State/Other	Number Inspected		State/Other	Number Inspected	
	Operators (% of Total)	Inspection Units (% of Total)*		Operators (% of Total)	Inspection Units (% of Total)*
Alabama	93 (100%)	111 (100%)	Nebraska	1 (50%)	1 (50%)
Alaska	0	0	Nevada	2 (25%)	2 (25%)
Arizona	816 (69%)	816 (69%)	New Hampshire	0 (0%)	0 (0%)
Arkansas	128 (64%)	230 (66%)	New Jersey	20 (35%)	31 (34%)
California	622 (23%)	622 (23%)	New Mexico	143 (65%)	181 (63%)
Colorado	40 (89%)	40 (89%)	New York	unk	unk
Connecticut	na	na	North Carolina	22 (104%)	22 (104%)
Delaware	8 (100%)	12 (100%)	North Dakota	11 (100%)	11 (100%)
Florida	13 (100%)	13 (100%)	Ohio	34 (69%)	54 (71%)
Georgia	50 (39%)	50 (39%)	Oklahoma	75 (44%)	75 (44%)
Hawaii	0	0	Oregon	0 (0%)	0 (0%)
Idaho	0	0	Pennsylvania	unk	unk
Illinois	17 (77%)	17 (77%)	Rhode Island	7 (100%)	7 (100%)
Indiana	52 (100%)	52 (100%)	South Carolina	8 (100%)	8 (100%)
Iowa	na	na	South Dakota	1 (50%)	1 (50%)
Kansas	27 (96%)	27 (96%)	Tennessee	59 (100%)	59 (100%)
Kentucky	54 (51%)	54 (51%)	Texas	286 (37%)	297 (35%)
Louisiana	145 (99%)	145 (99%)	Utah	23 (5%)	23 (5%)
Maine	na	na	Vermont	na	na
Maryland	53 (85%)	54 (86%)	Virginia	34 (34%)	69 (32%)
Massachusetts	0	0	Washington	60 (23%)	60 (23%)
Michigan	na	na	West Virginia	95 (48%)	147 (56%)
Minnesota	4 (100%)	4 (100%)	Wisconsin	circa 1 (3%)	circa 1 (3%)
Mississippi	67 (91%)	74 (93%)	Wyoming	na	na
Missouri	8 (100%)	8 (100%)	D.C.	na	na
Montana	13 (54%)	13 (54%)	Puerto Rico	0	0

Key:

unk = Unknown

na = Not applicable (no master meter systems)

Notes:

*Master meter systems, especially large ones, may be composed of more than one inspection unit.

Source: Annual state/other agency filings with the Office of Pipeline Safety, U.S. DOT.

master meter systems (see, for example, North Carolina in Exhibit 10). A total of 3,391 master meter inspection units were inspected in 1999. This figure appears to include multiple inspections of some inspection units.

4.3. OTHER ACTIVITIES

In addition to inspection, the Federal government and the states have undertaken a number of activities to help improve or ensure the safety of master meter systems. Exhibit 11 lists the major activities other than inspection undertaken by the various agencies of the Federal government and the states.

4.3.1. Other Activities Undertaken by the States

As shown in Exhibit 11, a number of states report that they train master meter operators, either formally or informally. This is probably the most common activity beyond inspection undertaken by the states to help improve or ensure the safety of master meter systems.

A number of states have formal training programs. Arizona, for example, annually provides master meter operators with a day of classroom training and a day of hands-on field training with various equipment. In addition, it has a program for master meter operators that will lend them equipment for use in leak surveys, corrosion control surveys, and pipe locating.⁶³ Illinois, unlike most other states, mandates formal training for everyone involved in the operation of gas systems, including master meter systems. Illinois state regulations stipulate, in some detail, the minimum requirements for the procedures used in the training of the operations personnel. The regulations allow master meter operators, as well as operators of other small gas systems, to use training programs conducted by local gas utilities, colleges and universities, consultants and others to obtain the required training. The section of the Illinois state regulations on training procedures is provided in Appendix C of this report.

In addition to formal training, information obtained from state pipeline regulators indicates that almost every state that inspects master meter systems provides some level of informal training during inspection. This is needed to ensure that system operators have some understanding of what is required of them and why. When North Carolina began regulating the safety of master meter systems, it found that the formal training it provided to operators had little effect on their performance. It found that the only way to get the operators to operate their systems in accordance with the Minimum Federal Safety Standards was to work with the operators during inspection.⁶⁴

⁶³Attachment B with letter from Terry Fronterhouse, Chief of Pipeline Safety, Pipeline Safety Section, Arizona Corporation Commission, to Paul Zebe, Volpe Center, November 21, 2000.

⁶⁴For more on the experience of North Carolina, see Dixon, "How North Carolina Solved Its Master Meter Problem."

EXHIBIT 11. ACTIVITIES BEYOND INSPECTION UNDERTAKEN TO IMPROVE THE SAFETY OF MASTER METER SYSTEMS

Agency	Activities
State/Local Agencies	
Alabama PSC	<p>Conducts seminars</p> <p>Conducts workshops</p> <p>Encourages Alabama Line Location Center membership</p>
Alaska	State has not assumed jurisdiction
Arizona CC	<p>Conducts annual master meter seminars</p> <p>Has a program for master meter operators under which they can borrow equipment to use for leak surveys, corrosion control surveys, and pipe locating</p> <p>Arizona Administrative Code prohibits construction of new or expansion of existing permanent residential mobile home parks</p> <p>Encourages master meter operators to allow local distribution companies to install individual meters and take over their systems</p>
Arkansas PSC	<p>Provides training to new managers/owners of master meter systems (i.e., those with less than two years of experience) on the minimum safety standards</p> <p>Copies of all leak surveys and cathodic protection monitoring surveys must be submitted by master meter operators to the state for review. If reports indicate problems, proof of actions to rectify deficiencies must be submitted by master meter operators for review</p> <p>Local distribution utilities are forbidden by state regulations to supply service to "newly constructed" facilities through master meter systems, barring specific exemptions</p>
California PSC	Local distribution companies have been encouraged to take over master meter systems
Colorado PUC	<p>Emphasizes training</p> <p>Tries to encourage local distribution companies to absorb master meter systems</p>
Connecticut PUC	Pressed local distribution companies to avoid creating new master meter situations
Delaware PSC	<p>Regular pipeline safety educational seminars are offered locally or in conjunction with neighboring states</p> <p>Provides free updates of pipeline safety regulation booklets</p> <p>When practicable, owners of new master meter systems are informed in advance of the pipeline safety rules and regulations</p> <p>Encourages master meter operators to let the local distribution companies maintain their systems for compliance with safety regulations</p>

EXHIBIT 11. (CONT.)

Agency	Activities
State/Local Agencies (Cont.)	
Florida PSC	<p>Ensures that all master meter systems are members of the local one-call notification system</p> <p>New master meter systems are banned for investor-owned utilities</p> <p>New master meter systems are strongly discouraged for public gas systems</p> <p>For regulated utilities, new requirements have been added, including leak surveys for non-owned systems</p>
Georgia PSC	<p>Offers training for master meter operators to help with compliance with state and Federal regulations</p> <p>Assists with qualifications for plastic fusion welding</p> <p>Encourages local distribution companies to absorb master meter systems</p> <p>Encourages master meter systems to enter into maintenance contracts</p>
Hawaii	State has not assumed jurisdiction
Idaho	State has not assumed jurisdiction
Illinois CC	<p>Strongly encourages master meter operators to participate in educational and training programs sponsored by state agencies and industry associations/organizations</p> <p>Has encouraged local gas distribution companies to absorb the master meter systems that they serve</p>
Indiana URC	<p>Hosts bi-annual TSI seminar, which master meter operators are encouraged to attend</p> <p>Encourages master meter operators to attend the annual Purdue University Corrosion Short Course</p> <p>Inspectors work with and provide information to master meter operators, upon request. Recent activities in this area relate to educating master meter operators about the Operator Qualification rule and providing information to assist in compliance with the rule</p>
Iowa	State does not allow master metering
Kansas CC	<p>Engages in random drop-in visits throughout the year</p> <p>Currently has proposed regulation that master meter operators cannot make a profit on gas sales</p> <p>Currently has proposed regulation that new master meters will not be allowed</p>

EXHIBIT 11. (CONT.)

Agency	Activities
State/Local Agencies (Cont.)	
Kentucky PSC	<p>Works closely with the Kentucky Gas Association to encourage master meter operators to take advantage of the training opportunities offered through that organization</p> <p>Training sessions specifically for master meter systems</p> <p>Training sessions for all utilities, including master meter systems</p> <p>Encourages local distribution companies to absorb master meter systems</p>
Louisiana DNR	<p>Conducts two small operator/master meter operator seminars annually</p> <p>Performs operator training upon request</p>
Maine	No master meter operators
Maryland PSC	<p>Provides O&M manuals and emergency plans</p> <p>Provides emergency plan training</p> <p>Provides small operators' course triennially</p>
Massachusetts	State has not assumed jurisdiction
Michigan	No master meter systems
Minnesota DPS	<p>Master meter operators are invited to attend the annual Minnesota Office of Pipeline Safety Educational Conference</p> <p>Encourages local distribution companies to offer safety training to their master meter operators</p> <p>Newly identified master meter operators are encouraged to work with their local distribution companies for replacement and/or take-over by the local distribution companies</p> <p>Underground master meter facilities are listed in the Gopher State Once Call database for location and marking prior to planned excavation activities</p> <p>Existing master meter operators have arrangements with their local distribution company gas providers to perform most required safety functions</p>
Mississippi PSC	Holds training seminars

Missouri PSC	<p>Working with investor-owned utilities to systematically replace facilities of master meter systems using rates and tariffs of the utilities as the funding mechanism</p> <p>Local investor-owned distribution companies have been tasked with performing leak surveys for the master meter systems that they service. Some leaks that are found during those surveys are repaired by the local distribution company, which bills the master meter operator for the cost. Other leaks are left to the master meter operator to repair. In those cases, the operator has six months to complete the repairs.</p>
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EXHIBIT 11. (CONT.)

Agency	Activities
State/Local Agencies (Cont.)	
Montana PSC	<p>Provides training in the requirements, such as operation and maintenance plans and emergency plans</p> <p>Encourages master meter operators to let their local distribution company take over their facilities</p>
Nebraska SFM	<p>Treats master meter operators exactly the same as any other gas system operator</p> <p>Will do occasional on-site training, if needed</p>
Nevada PUC	<p>Hosts a pipeline safety seminar every three years with a portion dedicated to small operators</p> <p>Maintains a list of qualified contractors for distribution to small operators if requested</p> <p>Inspectors often act as consultants to small operators</p> <p>Will encourage local distribution companies to absorb master meter systems that are unsafe or do not make any effort to comply with the safety codes</p>
New Hampshire PUC	<p>Encourages local distribution companies to perform operations and maintenance on system</p> <p>Strongly urges not installing a master meter system unless the local distribution company will be performing the operations and maintenance for the system</p>
New Jersey BPU	<p>Routinely corresponds with master meter operators to advise them of the requirement to file annual master meter compliance certifications</p> <p>Meets occasionally with local distribution companies to discuss ways of ensuring that the master meter operators they serve continue to perform master meter safety inspections</p> <p>State pipeline safety regulations ban new master meter systems</p> <p>When master meter operators have difficulty meeting their safety obligations, they are encouraged to meet with their local gas supplier to discuss available options, including turning the system over to the supplier</p>
New Mexico SCC	<p>Teach operators while inspecting, and advise operators when appropriate</p>

New York PSC	The local gas distribution company is required to take total responsibility for all underground piping from gas mains to building walls regardless of where meters are located
North Carolina	Provides training for master meter operators Holds operator meetings to which master meter system operators are invited

EXHIBIT 11. (CONT.)

Agency	Activities
State/Local Agencies (Cont.)	
North Dakota PSC	All master meter operators are invited to an annual Federal/State gas pipeline safety seminar Provides assistance to any master meter operator needing help in writing or updating plans All O&M/Emergency Response Plans of master meter operators undergo a full review at least once every three years Efforts being made to encourage local distribution companies to absorb master meter systems Efforts are being made to limit new master meter systems
Ohio PUC	Hosts safety seminars throughout Ohio to educate master meter operators Has distributed copies of the <i>Guidance Manual for Operators of Small Natural Gas Systems</i> and of Parts 191 and 192 to master meter operators Has invited all master meter operators to their TSI seminars Encourages local distribution companies to take over master meter systems
Oklahoma CC	Holds two to three master meter seminars per year, which cover how to attain compliance with state and Federal regulations Works closely with local distribution companies to take over master meter systems

Oregon PUC	<p>When staff is in the area, they try to take cathodic protection readings for master meter systems</p> <p>Encourages master meter operators to coordinate and communicate with the local distribution company</p> <p>Provides additional training, encourages operators to contact them with any questions they may have, and encourages operators to read the <i>Guidance Manual for Operators of Small Natural Gas Systems</i></p> <p>Has made efforts to get local distribution companies to take over master meter systems</p> <p>Gets immediate notification from local distribution companies of any requests to become master meter operators, and meets with the requestors to explain the requirements of the pipeline safety regulations</p>
Pennsylvania	State has not assumed jurisdiction

EXHIBIT 11. (CONT.)

Agency	Activities
State/Local Agencies (Cont.)	
Rhode Island DPUC	<p>Provides Microsoft Powerpoint presentation on gas safety, compliance with the codes, and basic maintenance issues associated with gas master meter systems to the owners, management, and maintenance workers at each master meter facility</p> <p>Trying to get the one local distribution company with master meter customers to absorb all of them and have offered to have the expenses absorbed by the ratepayers in the interest of public safety</p>
South Carolina PSC	<p>Makes the same resources available to master meter operators as are available to other operators, including training, video tapes, publications, and visitations between inspections</p> <p>Has made efforts to get local distribution companies to absorb master meter systems</p>
South Dakota PUC	Has adopted rules that generally prohibit the construction of new master meter systems. A variance is needed from the Commission before a new master meter system may begin operation

Tennessee RA	<p>Sponsors gas pipeline safety seminars for master meter systems and small distribution system operators</p> <p>Encourages membership and participation in Tennessee Gas Association to promote education and training in natural gas operations</p> <p>Has recently conducted training on the Federal Operator Qualification (OQ) rule and on the guidelines for developing OQ plans</p> <p>Inspectors have informally encouraged master meter operators to consider transferring ownership to local distribution companies if the operators are unable to comply with all of the Minimum Federal Safety Standards</p>
Texas RRC	<p>Annually conducts seminars for pipeline operators, including master meter system operators</p> <p>Conducts special investigations to assist master meter operators in understanding applicable safety rules</p> <p>Has mandated that local distribution companies install and maintain over pressure equipment at master meter locations where ten or more consumers are served low pressure gas</p>
Utah DPU	<p>Hosts an annual seminar to which master meter operators are invited in order to refresh their knowledge of what is important concerning the safety of their systems</p> <p>Has an agreement with a local distribution company to limit new master meters to situations where individual meters would be impractical</p>
Vermont	No master meter systems

EXHIBIT 11. (CONT.)

Agency	Activities
State/Local Agencies (Cont.)	
Virginia CC	<p>Holds biennial pipeline safety seminars to which master meter operators are invited</p> <p>Is working with gas utilities in the state to develop training materials specifically designed for master meter operators. After these materials have been developed, it is planned that local seminars will be held at various locations around the state to train master meter operators.</p> <p>Encourages local distribution companies to work with the master meter systems they serve in order to help ensure the safe delivery of gas</p>

Washington UTC	<p>Uses a more stringent definition of master meter operators than the U.S. DOT's Office of Pipeline Safety</p> <p>Educates during inspection, walking the master meter operators through the process and assisting the operators in meeting compliance requirements</p> <p>Invites master meter operators to DOT-sponsored seminars</p> <p>Requires annual reporting of pipe inventory and cause of leaks</p> <p>Provides master meter operators with samples of plans, procedures, and forms</p> <p>Encourages master meter operators to replace their systems with an individually metered utility system</p>
West Virginia PSC	<p>Copies of <i>Guidance Manual for Operators of Small Natural Gas Systems</i> are provided during initial inspection of master meter systems (and sometimes during follow-ups), along with sample O&M plans and emergency plans</p> <p>Encourages master meter operators to contact Miss Utility of West Virginia, Inc., the local one-call notification system, about membership</p> <p>Has worked closely with some local distribution companies to encourage them to acquire master meter systems</p>
Wisconsin PSC	<p>Copies of <i>Guidance Manual for Operators of Small Natural Gas Systems</i> are provided to operators</p> <p>Copies of pipeline safety regulations are provided to operators</p> <p>Staff is currently in the process of creating a model O&M plan for master meter operators that will be made available for their use</p> <p>Encourages local distribution companies to acquire master meter systems</p> <p>Encourages master meter systems to allow their facilities to be taken over by local distribution companies</p>
Wyoming	No jurisdictional master meter systems
D.C.	No master meter systems

EXHIBIT 11. (CONT.)

Agency	Activities
State/Local Agencies (Cont.)	
Puerto Rico	Commonwealth has not assumed jurisdiction
Federal Agencies	

<p>U.S. Department of Transportation</p>	<p>Prepares, updates, and distributes the <i>Guidance Manual for Operators of Small Natural Gas Systems</i>. To facilitate and extend distribution, an electronic version of this manual has been made available on the Internet</p> <p>Holds, co-sponsors, and/or participates in training seminars for pipeline operators, including master meter operators, throughout the U.S. Some of these seminars are specifically designed to help small operators, such as master meter operators.</p> <p>Provides telephone help and assistance to pipeline operators, including small operators</p> <p>Works and participates with associations that support small operators</p> <p>Has developed a PowerPoint training presentation for in-house use by staff of small operators. This presentation can be downloaded from the Internet</p> <p>Offers participation to small operators, including master meter operators, in PEPG (Pipeline Employee Performance Group) training development meetings</p> <p>Prepares, updates, and distributes <i>Pipeline Safety Regulations</i>. Also makes regulations available on the Internet</p> <p>Encourages states that do not regulate master meter systems to seek authority to do so</p>
<p>U.S. Department of Housing and Urban Development</p>	<p>Various activities directed at helping to ensure the safety of master meter systems associated with public housing</p>

Key:

BRC = Board of Regulatory Commissioners	PSC = Public Service Commission
CC = Corporation (or Commerce) Commission	PUC = Public Utility(ies) Commission
DC = Department of Commerce	PC = Railroad Commission
DNR = Department of Natural Resources	SCC = State Corporation Commission
DPS = Department of Public Service	SFM = State Fire Marshall
DPU = Department (or Division) of Public Utilities	TSI = U.S. DOT/RSPA/Transportation Safety Institute
DPUC =	Department of Public Utility Control
UC = Utilities Commission	
OPS = Office of Pipeline Safety	URC = Utility Regulatory Commission
	UTC = Utilities and Transportation Commission

Sources of information: Various state agencies; OPS Regional Offices; TSI; state filings with OPS

A number of states attempt to (1) get master meter system operators to let their facilities be taken over by the local gas utilities supplying them, (2) get operators to have the maintenance or operation and maintenance of their systems be taken over by their gas suppliers, or (3) ban master meter systems.

Regulators in various states report that their agencies have made efforts to get the facilities of master meter systems taken over by the utilities supplying the systems with gas. These efforts have frequently met with success. In Connecticut, for example, due to the efforts of regulators, all existing master meter systems were phased out.⁶⁵ In Arizona, local gas distribution companies and state pipeline regulators have encouraged master meter operators to allow their gas suppliers to install individual meters. As a result of these efforts, approximately 350 master meter operators were eliminated in Arizona between 1995 and 2000.⁶⁶ In Missouri in 1984, state regulators worked with KPL Gas Service and got KPL to take over the facilities from a majority of the master meter systems at trailer parks in the KPL service area.⁶⁷ In the District of Columbia as a result of regulator activities, all master meter systems, as defined by the OPS, have been taken over by the local gas distribution company.⁶⁸ In Florida, new master meter systems have been banned for investor-owned utilities. New systems are strongly discouraged for public utilities. As a result, it is reported that no new master meter systems have been built in years.⁶⁹ In Michigan, as a result of Michigan Public Service Commission Cases U-4211 (April 29, 1974) and U-4985 (August 29, 1977), and a plan developed in 1992 in cooperation with utility representatives, "...the installation of centrally metered facilities has essentially been banned...."⁷⁰ In New Jersey, state pipeline safety regulations do not permit new master meter systems.⁷¹

Only one state, Iowa, has effectively banned master meter systems completely. Iowa state regulations do not permit master meters.⁷² The regulations of the state require that

⁶⁵Letter from Philip Sher, Associate Engineer, Connecticut Department of Public Utility Control, to Paul Zebe, Volpe Center, December 18, 1989.

⁶⁶Letter from Terry Fronterhouse, Chief of Pipeline Safety, Pipeline Safety Section, Arizona Corporation Commission, to Paul Zebe, Volpe Center, November 21, 2000.

⁶⁷Letter from W.R. Ellis, Pipeline Safety Program Manager, Missouri Public Service Commission, to Paul Zebe, Volpe Center, December 4, 1989.

⁶⁸Information from Richard C. Huriaux, P.E., Director, Office of Engineering, Public Service Commission of the District of Columbia, to Paul Zebe, Volpe Center, November 15, 1989, and subsequent information.

⁶⁹E-mail from Edward Mills, Florida Public Service Commission, to Paul Zebe, Volpe Center, November 3, 2000.

⁷⁰Letters from Ram Veerapaneni, Supervisor, Gas Operations, Michigan Public Service Commission, of December 1, 1989 and February 11, 1993 to U.S. DOT.

⁷¹E-mail from David McMillan, New Jersey Board of Public Utilities, to Paul Zebe, Volpe Center, December 4, 2000.

⁷²Letter from Donald J. Stursma, P.E., Principal Gas & Water Engineer, Bureau of Rate & Safety Evaluation, Iowa State Utilities Board, to Paul Zebe, Volpe Center, November 15, 1989.

All gas delivered to multi-occupancy premises where units are separately rented or owned shall be sold by a utility on the basis of individual meter measurement for each unit except for that gas used in centralized heating, cooling or water-heating systems, where individual metering is impractical, where a facility is designated for elderly or handicapped persons and utility costs constitute part of the operating cost and are not apportioned to individual tenants, or where submetering or resale of service was permitted prior to 1966.⁷³

New York State, which permits master meter systems, requires that local gas utilities take responsibility for all underground piping from gas mains to building walls.⁷⁴ This effectively eliminates much of the risk associated with master meter systems.

4.3.2. Other Activities Undertaken by the Federal Government

The U.S. DOT has undertaken a number of activities to improve or ensure the safety of master meter systems, as can be seen in Exhibit 11. It periodically updates and distributes its *Guidance Manual for Operators of Small Gas Systems*. This manual was developed to provide a broad, general overview of the requirements of the Federal pipeline safety regulations for a non-technical audience. It covers reports and plans required by the OPS, the materials qualified for use in gas systems, construction and repair of systems, and the proper location and design of customer meters and service regulators.⁷⁵ It also provides the reader with a list of sources of additional information. The manual, last revised in 1997, has been widely distributed to master meter systems. A new update of the manual is currently being prepared. The 1997 version is currently available not only in hard copy, but also an electronic version of the manual is available on the Internet at www.tsi.dot.gov/divisions/pipeline/pipe_docs/som.htm.

The OPS Regional Offices provide some informal training to the master meter system operators with whom they come into contact in the course of inspecting master meter systems. The OPS Regional Offices are also active in sponsoring, participating in, and encouraging formal training seminars for master meter systems. They also encourage states that have not assumed master meter jurisdiction to do so.

The U.S. DOT's Transportation Safety Institute (TSI), which, like the OPS, is part of the Research and Special Programs Administration, is a key player in the formal training of master meter and other gas pipeline system operators. Each year it conducts training seminars and meetings in Oklahoma City, where it is located, and at many other sites throughout the country. Many states, as well as the OPS regional offices, sponsor TSI training seminars for gas pipeline system operators, including

⁷³Iowa Rules, 199-19.3(1)b.

⁷⁴E-mail from Jeffrey Kline, Senior Valuation Engineer, Safety Section, Office of Gas & Water, New York State Department of Public Service to Paul Zebe, Volpe Center, November 6, 2000.

⁷⁵A service regulator is "a device designed to reduce and limit the gas pressure to a consumer" [*Guidance Manual for Operators of Small Gas Systems*, p. A-4.].

master meter system operators.

Like the U.S. DOT, the U.S. Department of Housing and Urban Development (U.S. HUD), which is responsible at the Federal level for public housing in the U.S., also has an interest in the safety of master meter systems because many public housing projects in the U.S. are served by gas master meter systems. In the mid-1970s, U.S. HUD had Arthur D. Little, Inc., do a study "...to assess natural gas pipeline safety in residential areas served by master meters."⁷⁶ This study was used as the basis for a HUD master meter system safety guide entitled, *Handbook on Natural Gas Pipeline Safety in Residential Areas Served by Master Meters*, which was published in 1975.⁷⁷ The underlying purpose of this guide was

...to make housing project managers, maintenance engineering staff, and designers and architects of HUD-assisted and HUD-insured housing projects and mobile home parks aware of their responsibilities under the Natural Gas Pipeline Safety Act.⁷⁸

The U.S. HUD guide was superseded by DOT's *Guidance Manual for Operators of Small Gas Systems*, which U.S. HUD has distributed in the past to public housing authorities around the country.⁷⁹

U.S. HUD has operated a variety of programs over the years that could be used by public housing authorities to obtain funding to bring their master meter systems into compliance with the minimum Federal Safety Standards. Master meter operators in a number of states, including South Carolina, are reported to have availed themselves of U.S. HUD funding in order to finance system safety improvements.⁸⁰

⁷⁶ Arthur D. Little, Inc., *Natural Gas Pipeline Safety in Master-Metered Residential Areas*, p. iii.

⁷⁷ S. Atallah, P. Athens, D. Jeffreys, R. Linstrom, and J. O'Brien, *Handbook on Natural Gas Pipeline Safety in Residential Areas Served by Master Meters*.

⁷⁸ Atallah, S., Athens, P., Jeffreys, D., Linstrom, R., and O'Brien, J., *Handbook on Natural Gas Pipeline Safety in Residential Areas Served by Master Meters*, p. I.

⁷⁹ Telephone conversation between Charles Ashmore, HUD, and Paul Zebe, Volpe Center, January 11, 1990.

⁸⁰ Letter from James S. Stites, Chief, Gas Department, Utilities Division, South Carolina Public Service Commission, Paul Zebe, Volpe Center, November 14, 1989.

5. IMPROVING THE MASTER METER SYSTEM INSPECTION PROGRAM

5.1. INTRODUCTION

Inspection is one of the important activities undertaken by the states and the Office of Pipeline Safety (OPS) to ensure and improve the safety of master meter systems in the U.S. While other activities may have a potential for improving the safety of the systems (these will be discussed in the next chapter), none is currently as widely used as inspection.

When the states or the OPS send an inspector to a master meter system, the inspector almost always provides informal training in one form or another. The inspector may explain how to operate a pipe locator, or why it is important to periodically do leak surveys, or how to do a leak survey. In some cases, the inspector will sit down with the operator and review the regulations, explaining what the operator needs to do and how it is to be done. The training provided by inspectors is essential to the safe operation of master meter systems. In fact, in many cases it is the only gas pipeline safety training an operator receives.

Inspectors also help identify problems before those problems get worse. This is an important function of inspectors at any pipeline operation. It is an essential function at master meter systems, because the operators often may not recognize a problem and, if they do, often may not know how to correct it. When the OPS inspects and finds violations, it undertakes enforcement actions requiring the master meter system operator to take remedial action to bring the system into compliance with the Federal pipeline safety code. The states with Section 60105 certifications take similar actions when violations are found, while those with Section 60106 agreements refer enforcement actions to the OPS.

Master meter system operators, unlike the operators of most other types of gas pipeline systems, are not usually gas pipeline professionals. They are property owners, property managers, property maintenance people, and sometimes even janitors. They generally have little or no understanding of natural gas or how to handle it safely. It is reported, for instance, that one master meter operator was surprised to find that natural gas did not flow through the pipes as a liquid.⁸¹

It is evident from the foregoing that inspection is quite important to the safety of master meter systems. Given its importance, the question arises as to whether the current Federal/state cooperative program of inspection is sufficient, and, if not, how it might be improved.

5.2. IS THERE A NEED FOR AN IMPROVED INSPECTION PROGRAM?

The need for an improved inspection program would logically appear to hinge on the historical safety performance of master meter systems. If the performance has been good and there is no reason to assume that it will change in the future, then there is no need for an improved inspection program. If

⁸¹Dixon, "How North Carolina Solved Its Master Meter Problem," p. 26.

the performance is poor or there is some compelling reason to believe that today's good performance will deteriorate in the future, then an improved inspection program might be in order. Unfortunately, the data available on master meter incidents (see Exhibit 3) is too sparse to support an analysis to make such a determination. Furthermore, the data that exists is mostly from states with active master meter inspection programs, limiting its usefulness in any determination of the impact of an improved inspection program on the safety of master meter systems in states without such programs.⁸² Little data exists for those states without active master meter inspection programs.

Because OPS policy in the states where it exercises jurisdiction is to inspect only when there is an accident or a safety concern, it might be assumed that OPS inspections conducted following incidents could be counted and used to bolster the available state incident data. Unfortunately, it is not clear that the OPS is notified of all master meter incidents where it exercises jurisdiction. Many master meter operators may not know that they are supposed to report accidents. Others may know that they are supposed to report, but not how or to whom, and still others may simply ignore the requirement for various reasons (this may also be true in some of the states where state agencies have assumed jurisdiction). In the 1970s and early 1980s when the OPS required annual reporting by all master meter operators, only an estimated 1.5 to 2.3 percent ever filed a report.⁸³ Although this experience may not necessarily be reflective of the experience of the OPS with the reporting of master meter system incidents, it is indicative of the possibility of under-reporting.

Although there is a paucity of master meter accident data, there are some indications of the relative performance of master meter systems. Many regulators have found from their experience that master meter system operators, unlike the operators of other gas distribution systems, are generally inadequately trained to safely operate and maintain their systems. Consequently, the potential for problems is considered greater on master meter systems than on other distribution systems. It should be noted that the opinion that master meter systems are not as safe as other systems is not universal. Pipeline regulators in several states have reported that the safety of master meter systems in their states is no worse than that of any other distribution system.⁸⁴

One way to assess the adequacy of the current regime of master meter system inspection (and thereby assess the need for an improved inspection program) without accident data would be to compare the frequency of master meter system inspection with the frequency of inspection of similar types of pipeline systems, such as other gas distribution systems. The frequency of inspection that is needed for a particular type of system will depend, to a greater or lesser extent, on the risk of an accident (i.e., the probability of an accident times its expected consequences). Consequently, comparing the relative risk of accidents on master meter systems with that of accidents on other gas distribution systems

⁸²Of the 37 states with master meter systems for which incident data is provided in Exhibit 3, 20 inspect master meter systems at least once a year, 8 inspect them at least once every two years, and 7 inspect less frequently than biennially. Two of the states have not yet established an inspection schedule.

⁸³U.S. DOT, "Exercise of Jurisdiction Over Master Meter Gas Operators," p. 9.

⁸⁴Letter from Myron Thompson, Chief, Pipeline Safety, Arkansas Public Service Commission, to Paul Zebe, Volpe Center, December 1, 1989; letter from R. Lynnard Tessner, Georgia Public Service Commission, to Paul Zebe, Volpe Center, December 5, 1989.

would provide some indication of the frequency of inspection needed for master meter systems. To perform this comparison, it is necessary to look at the relative probabilities of accidents on the two types of systems and the relative consequences of accidents.

If master meter systems are less safe than other gas distribution systems, the probability of a master meter accident will be greater than that of an accident on other gas distribution systems. If master meter systems are no less safe than other gas distribution systems, the probability of a master meter accident will be about the same as that of an accident on other gas distribution systems. In the absence of good data, the probability of an accident on a master meter system can be expected to be greater than or equal to the probability of an accident on other gas distribution systems.

Master meter systems often serve mobile home parks, public housing authorities, apartment complexes, and other locations where there are concentrations of people. Many other gas distribution systems also serve concentrations of people. The concentrations of people served by master meter systems are almost certainly no less dense than the concentrations of people served by other gas distribution systems, and they may be denser. Consequently, the consequences of an accident on a master meter system will be no less than those of an accident on some other gas distribution system. This assumes that (1) accidents on other gas distribution systems are no more damaging than accidents on master meter systems and (2) property in the vicinity of accidents on master meter systems is no less valuable than property in the vicinity of accidents on other gas distribution systems.

Based on the foregoing, it would appear that the risk of an accident on a master meter system will be no less than that of an accident on other gas distribution systems, and, in fact, it may be greater. Therefore, based on comparative risk, it would appear that inspections of master meter systems should be no less frequent than inspections of other gas distribution systems. It may be, of course, that inspections should be more frequent.

Under Section 108(a) of the Pipeline Safety Reauthorization Act of 1988, if necessary funds are appropriated, the OPS is required to inspect all gas distribution systems over which it exercises jurisdiction at least once every two years. The OPS is permitted to inspect master meter systems at a reduced frequency, should this be considered appropriate. If two years is taken as the maximum acceptable interval between inspections, then master meter systems in at least 15 states are not being inspected often enough (see Exhibits 8 and 9). In 5 of those states -- Alaska, Hawaii, Idaho, Massachusetts, and Pennsylvania -- inspection is solely the responsibility of the OPS. In the others -- California, Kentucky, Nebraska, New Mexico, Oklahoma, Oregon, Texas, Virginia, West Virginia, and Wisconsin -- inspection is performed by the state.

5.3. PROBLEMS TO BE OVERCOME IN IMPLEMENTING AN IMPROVED INSPECTION PROGRAM

If an improved inspection program that increases the frequency of inspection of master meter systems is implemented, it will require the participation of pipeline regulators in every state. This will be necessary because (1) the states are better equipped to deal with local distribution systems and (2) the OPS does not have resources to take responsibility for inspection of the master meter systems. Undertaking improvement of master meter system inspection at the state level, however, will require overcoming several potential problems.

5.3.1. Getting States to Assume Jurisdiction Over Their Master Meter Systems

An improved master meter inspection program will necessitate that all states assume safety jurisdiction for their master meter systems. Currently, the states of Alaska, Hawaii, Idaho, Massachusetts, and Pennsylvania, as well as the Commonwealth of Puerto Rico, do not regulate master meter systems and cannot say definitively that they have no natural gas master meter systems. Michigan also does not regulate master meter systems, but that state eliminated them prior to giving up jurisdiction. Vermont does not regulate master meter systems, but does not have any.

It is reported that the most common reason why state regulators do not regulate master meter systems is that they have not been given the statutory authority to do so, and, as a matter of policy, generally do not seek to expand their authority. Furthermore, regulating master meter systems would require additional staff and most do not have a funding mechanism. It should be noted that most of these state regulators are not against regulating master meters. If legislation were introduced giving them authority over master meter system safety, they would generally not oppose it.⁸⁵

The situation in California may not be atypical with regard to expansion of regulatory authority. California currently only regulates master meter systems at mobile home parks. California regulators report that they would need to show the state legislature the benefits of expanded regulation before the legislature would approve an expansion. Currently, they feel that they are incapable of doing so because they lack hard data on master meter system incidents and consequences at sites in California other than mobile home parks.⁸⁶

5.3.2. Getting States to Increase Inspection Frequency

Getting states to increase the frequency of master meter inspection may require action by state legislatures to approve funding and increased numbers of safety inspectors, and will definitely require action by state safety agencies to undertake and allocate funding to support increased numbers of

⁸⁵E-mail from William Gute, Regional Director, Eastern Region, Office of Pipeline Safety, RSPA/U.S. DOT, to Paul Zebe, Volpe Center, June 19, 2001.

⁸⁶Telephone conversation between Mahendra Jhala, Chief, Utilities Safety Branch, California Public Service Commission, and Paul Zebe, Volpe Center, December 19, 2000.

inspections per year. In some cases, this might require convincing state legislatures and regulators that increased inspection frequency would be beneficial. The total cost of increased inspection to the states that inspect less frequently than biennially would appear fairly low, even when including the states that do not currently regulate master meter system safety.

Assuming that all existing state pipeline inspectors are now fully employed, undertaking at least biennial master meter inspections for the master meter systems by state agencies will involve the hiring of additional inspection staff. If a state has no pipeline safety jurisdiction whatsoever, new offices may need to be created that would include not only inspectors but also managerial and clerical staff. The average annual salary, as of December 31, 1995, of the full-time gas safety inspectors employed by the states participating in the gas pipeline safety program, according to the National Association of Regulatory Utility Commissioners, ranged from \$16,000 in Vermont to \$62,304 in Colorado.⁸⁷ After overhead and other costs are added to the salaries, the cost of hiring an inspector can be substantial. In some states, such as California, where the number of master meter systems unregulated by the state is probably quite large, several new hires might be required.

On the basis of master meter systems being inspected at least once every two years, it is quite possible that it would be necessary to perform 1,000 to 1,500 additional master meter inspections per year.⁸⁸ Those inspections would be distributed across 14 different states, plus Puerto Rico (these are where inspection occurs less frequently than once every two years). To perform those inspections, a total of about 28 to 50 additional inspectors would be needed. This estimate of the number of additional inspectors needed assumes that (1) the state or commonwealth undertakes to perform all needed inspections, (2) all state pipeline inspectors are currently fully employed (i.e., they have no free time to do any additional inspections), and (3) an inspector can be expected perform between 30 and 36 inspections, on average, per year.⁸⁹

⁸⁷NARUC, *Utility Regulatory Policy in the United States and Canada, Compilation 1995-1996*, Washington, DC, 1996, Table 297.

⁸⁸This range was derived as follows. Currently, there are 7,342 known master meter systems. It is estimated that there are 8,343 master meter systems in total. This means that 1,001 additional systems would need to be inspected once every two years, or 501 additional systems would need to be inspected per year. Also, the frequency of inspection would need to be increased in California, Kentucky, Nebraska, New Mexico, Oklahoma, Texas, Virginia, West Virginia, and Wisconsin (see Exhibit 8). If these states were to inspect biennially, then a total of 716 more systems would need to be inspected annually (to be conservative, where a range was given in Exhibit 8, the longest time between inspections was used in the calculations that were made). Adding 501 and 716 yields 1,217 more systems to be inspected each year. Assuming the information in Exhibit 10 is representative of the relationship between systems and inspection units, then 1,325 additional inspection units would need to be inspected per year. One inspection per inspection unit was assumed. To be conservative, a general (non-statistical) range was used, rather than the point estimate of 1,325.

⁸⁹In 1996, a recent year for which data is readily available, 294 inspectors working a total of 272 labor years inspected 8,107 natural gas inspection units (see U.S. DOT, "Report on Pipeline Safety, Calendar Years 1995-1996", p. 44). This is an average of 29.8 inspections per labor year. In 1995, 288 inspectors working a total of 234.79 labor years inspected 8,435 natural gas inspection units (see U.S. DOT, "Report on Pipeline Safety, Calendar Years 1995-1996", p. 42). This is an average of 35.9 inspections per labor year.

To put the number of additional inspectors into perspective, in 1996 there were 294 state inspectors involved with natural gas safety. An additional 28 to 50 would represent a 10 to 17 percent increase in the total number of inspectors. It would, of course, represent an even greater percentage of the number of inspectors employed by the states where the inspection frequency falls short of once every 2 years. If it is assumed that the total cost of a state pipeline inspector, including salary and benefits and direct support costs (e.g., travel, training, and equipment) is \$50,000 per year, on average, then the additional inspectors will cost the states and commonwealths between \$1,400,000 and \$2,500,000 per year (not including any associated management, administrative, and legal costs). Spread among 14 states plus Puerto Rico, this is not an enormous amount of money. Assuming that the total cost is \$100,000 per year per inspector, the total cost, which is between \$2.8 million and \$5 million, still does not appear excessive when spread among 14 states and Puerto Rico. Of course, this total cost will not necessarily be borne equally by all of the states, and the additional amount required could be viewed as burdensome by some state legislatures or regulatory agencies.

One impediment to states assuming jurisdiction may be industry resistance. Although the California Public Service Commission now has jurisdiction over master meter systems at mobile home parks, it is reported that the mobile home industry was instrumental in blocking some legislation that would have given the PSC that jurisdiction at an earlier date.⁹⁰ Resistance by industry, where it exists, is probably the result, in great measure, of a fear that changes in safety regulation will result in additional costs that will have to be borne by industry.

5.3.3. Identifying Master Meter Systems

Whenever jurisdiction is obtained, one of the first tasks facing state agencies is that of identifying the master meter systems operating in the state. This is not necessarily a simple process. It can prove to be both time-consuming and expensive if it requires an on-site inspection to determine whether a purchaser of gas is operating a master meter system. This is often the case, because local gas utilities, the primary source of information, will not always have sufficiently detailed records to determine if a system is a master meter system as defined by the OPS.⁹¹

In 1988-89, the Minnesota Office of Pipeline Safety (MN OPS) began a program to identify all of the master meter systems in the state. As a first step, the OPS asked all the utilities in Minnesota for the names of everyone who purchased gas for redistribution. Unfortunately, the information gathered was inadequate, and site visits by OPS staff were necessary.⁹²

⁹⁰Telephone conversation with Al Kirchem, California Public Service Commission, March 9, 1990.

⁹¹SASC, *An Analysis of Natural Gas Master Meter Systems (Definition & Program) From A Federal Perspective*, p. 5-10.

⁹²Telephone conversation with Ronald Wiest, MN OPS, March 6, 1990; Telephone conversation with Ronald Wiest, Steven Sweeney, and Scott Olsen, MN OPS, March 7, 1990; letter from Walt Kelly, Director, MN OPS, to RSPA, February 12, 1993.

In Ohio, the original list of potential master meter operators was 550. This was reduced by the Ohio Public Utilities Commission (OH PUC) staff to 295. Then, in 1989, an additional 850 potential operators were found. By the end of 1992 the number of identified master meter systems was 149, with a list of 596 potential ones remaining for the OH PUC to investigate.

5.3.4. Obtaining Sufficient Inspectors to Perform the Inspections

To perform additional inspections, some state regulatory agencies will undoubtedly need to hire additional inspectors. This may present some problems, at least in the short-term, since the number of individuals who are both qualified and willing to be inspectors is not unlimited. The problem appears to be that salaries paid by the state pipeline safety agencies are often too low to attract many people who are qualified.

From time to time, state pipeline safety agencies report that they come under a hiring freeze and are not permitted to hire inspectors. This could prove to be a problem if, after assuming jurisdiction, the state agencies find that they have a relatively large number of master meter systems to inspect. Although it is likely that a hiring freeze would be relaxed if the additional responsibility (i.e., the need to inspect master meter systems) considerably increased the workload of an agency, this is not certain. If the hiring freeze were not relaxed, it is likely that master meter system inspection by the state, though officially authorized, would not get underway (i.e., the state would probably not cut back on its other inspection programs to accommodate master meter system inspection). The same kind of problem would result if state agencies are not under a hiring freeze but are turned down when they seek permission to hire the additional inspectors needed.

5.4. OPERATOR QUALIFICATION AND MASTER METER SYSTEMS

In 1999, the Office of Pipeline Safety issued a final rule requiring "...pipeline operators to develop and maintain a written qualification plan for individuals performing covered tasks on pipeline facilities." This new rule, which is currently being phased in, covers master meter operators, along with most other hazardous liquid and gas pipeline operators. The rule is expected to "...ensure a qualified work force and...reduce the probability and consequence of incidents caused by human error."⁹³

This rule to some extent represents an alternative to an improved program master meter system inspection.⁹⁴ It is expected by both Federal and state pipeline safety regulators that the new Operator Qualification rule will improve the safety performance of master meter systems by forcing master meter operators to do one of the following: (1) hire qualified staff, (2) hire qualified contractors, or (3) turn their operations over to the local gas distribution systems and get out of the gas distribution business. In some cases, it might be noted, to meet the requirements of the Operator Qualification rule, master

⁹³*Federal Register*, August 27, 1999, Vol. 64, No. 166, pp. 46853-46867.

⁹⁴E-mail from Frederick A. Joyner, Regional Director, Southern Region, Office of Pipeline Safety, RSPA/U.S. DOT, to Paul Zebe, Volpe Center, May 24, 2001.

meter operators are likely to hire their local gas distribution companies.

In some cases, the new Operator Qualification rule may indeed obviate the need for an improved program of master meter system inspection. It will not do so, however, in all cases. There are master meter operators who do not currently understand what their responsibilities are with respect to ensuring the safety of their systems, and as a consequence do not perform those functions in an appropriate (and safe) manner. There is some question as to whether the Operator Qualification rule will have much of an impact on those operators, unless state or Federal pipeline regulators force the issue. Its impact on operators not currently subject to regular inspection is problematic, and arguably it is these very same operators who need the rule the most.

6. AN ALTERNATIVE TO AN IMPROVED INSPECTION PROGRAM

6.1. INTRODUCTION

A problem with inspection of master meter systems is that the gains in safety made by additional inspections are often temporary. As discussed earlier, persons who operate master meter systems are generally not qualified gas pipeline professionals. The training provided during inspection helps make those who operate master meter systems better able to run their systems safely. Unfortunately, there is a high turnover of people working at master meter systems (which, in large part, appears to be the result of low wages). It is reported that in Arkansas, for example, an inspector often deals with a different person every time a system is contacted.⁹⁵ When individuals who have received training from inspectors leave, they take their training and gas pipeline "experience" with them. It is lost to the master meter system. Important records may also be lost.⁹⁶

The goal to improve the safety of master meter systems may not necessarily involve improving their inspection by Federal or state personnel. Since local gas utilities have qualified gas pipeline professionals, an alternative would be to turn responsibility for master meter systems over to the local gas utility companies. This alternative, which can be accomplished in three different ways, is discussed in the remainder of this chapter.

6.2. BAN MASTER METER SYSTEMS

One way to get local gas utility companies to assume the responsibility for master meter systems would be to ban master meter systems. This would effectively eliminate any safety problems associated with the distribution of natural gas by master meter systems. It would, of course, also eliminate the need for the inspection of master meter systems.

A ban on master meter systems would force the transfer of gas customers from master meter systems to local gas utilities (provided, of course, that the master meter systems did not circumvent the ban by switching to another fuel, such as propane). Utilities may require that landlords who formerly operated master meter systems pay a portion of the cost of hooking their tenants up to the gas distribution system (the portion may be as high as 100 percent). This charge should be no greater than what it would be for hooking up a new property of comparable size. Landlords may be able to recoup part of their costs by selling or transferring the facilities of their master meter systems to the gas utilities, though many utilities would not be interested in the underground piping of systems unless they are able to verify that it is in compliance with the Minimum Federal Safety Standards. To ensure that landlords get fair prices for the facilities they transfer to utilities, it may be necessary for state regulators to

⁹⁵Letter from Myron Thompson, Chief, Pipeline Safety, Arkansas Public Service Commission, to Paul Zebe, Volpe Center, December 1, 1989.

⁹⁶Letter from Myron Thompson, Chief, Pipeline Safety, Arkansas Public Service Commission, to Paul Zebe, Volpe Center, December 1, 1989.

establish pricing guidelines.

Only one state, Iowa, has effectively banned all gas master meter systems. Three other states, Arkansas, Michigan, and New Jersey, have banned all new master meter systems. Existing systems in these states, however, are not affected by the ban and may continue to operate (no systems operate in Michigan any longer due to the restrictions imposed on them by the Michigan Public Service Commission in its Order in Case No. U-421 and to the state's 1992 requirement that local gas utilities offer to take master meter systems over).⁹⁷ By making the local gas utility responsible for underground piping up to the building wall, New York State's regulations apparently have had the effect of discouraging the establishment of new master meter systems and the continued operation of existing systems.⁹⁸

Some state governments, it should be noted, appear to be opposed to expanding the regulatory control that they currently exercise over master meter systems. Regulators in at least one state, Texas, feel that their state government would be opposed to any additional governmental interference in the operation of master meter systems.⁹⁹ This, of course, means that the state government would probably be opposed to banning master meter systems.

A ban on natural gas master meter systems may cause the operators of some existing systems to change the fuel used in the system. For instance, an operator might switch to propane or a propane/air mixture. This would not necessarily represent an improvement in the safety of the system, since the operator may not know any more about propane and the safe operation of an LPG distribution system (propane is a type of LPG) than about natural gas and the safe operation of a natural gas distribution system. Therefore, while natural gas safety improves, overall public safety remains more or less the same as before. In the case of a switch to LPG, it might be noted, a system would still be subject to the Minimum Federal Safety Standards, as they apply to LPG. A system would not be subject to the Minimum Federal Safety Standards, of course, if the switch were to electricity.

There appears to be a tendency for legislatures and regulators to "grandfather" existing systems by allowing systems already in operation to continue as before. If this is done, then the safety of the current systems is not effected by banning master meter systems in a state. If existing systems are "grandfathered", then only in states with a growing number of master meter systems would there be any appreciable safety impact from a ban on master meter systems. As can be seen from a comparison of Exhibit 1 with Appendix A, there appear to be few states that have experienced a growth in master meter systems.

⁹⁷Order, Case No. U-4211, Michigan Public Service Commission, April 29, 1974, p. 4, and its February 11, 1993 letter to RSPA.

⁹⁸E-mail from Jeffrey Kline, Senior Valuation Engineer, Safety Section, Office of Gas & Water, New York State Department of Public Service, to Paul Zebe, Volpe Center, November 6, 2000.

⁹⁹Telephone conversation with Dean Scott, Texas Railroad Commission.

6.3. REQUIRE THAT LOCAL GAS UTILITIES ABSORB THE FACILITIES OF MASTER METER SYSTEMS

Another way to get local gas utilities to assume responsibility for master meter systems would be to require that they take over and absorb the facilities of those master meter systems they supply with natural gas. Under this approach, sometimes referred to as master meter system conversion, the utilities assume both ownership and operation of all of the jurisdictional facilities of the master meter systems (i.e., all of the facilities of the master meter systems that are subject to the minimum Federal Safety Standards). These facilities are incorporated and integrated into the utilities' systems, and the master meter systems, as operating units, cease to exist.

The absorption or conversion of master meter systems would eliminate most, if not all, of the safety problems associated with the systems, as well as the need for targeted system inspection.¹⁰⁰ The facilities would be operated by gas pipeline professionals who understand the requirements of the minimum Federal Safety Standards and whose systems are generally in compliance with those standards. Furthermore, liability considerations, among other things, will tend to ensure that the facilities are brought into compliance with 49 CFR 192.

The absorption of a master meter system by its gas supplier often necessitates some modifications to the system to bring it into compliance with the Minimum Federal Safety Standards. These can include such things as re-piping the system or making other modifications to the piping both inside and outside of the buildings. It appears that these modifications are generally expected to be paid for by the master meter operator, not the utility. It should be noted that master meter system operators who find that they must pay for modifications to their systems to bring them into compliance with the Minimum Federal Safety Standards could be liable for these same costs even if their systems are not absorbed by their gas suppliers, since they are obligated by law to bring their systems into full compliance with the Minimum Federal Safety Standards and may face civil penalties that can be as much as \$10,000 for each violation if they fail to do so.¹⁰¹

The actual costs that master meter system operators will face when they have their systems converted will vary somewhat, depending on what needs to be done. In 1986, the Stamford, Connecticut, Housing Authority had Connecticut Light and Power (CL&P) convert its system on Lawn Avenue and Custer Street, which had connections to 22 buildings. CL&P installed new underground service lines and connected the new lines into the existing building piping. The charge by CL&P for this work

¹⁰⁰The pipeline inspection unit into which the facilities of the master meter system have been incorporated will, of course, continue to be inspected. In the inspection, the records and procedures of the operator of the unit will be expected to cover the facilities obtained from the master meter operator, just as they will be expected to cover all other facilities of the unit. Furthermore, spot checks made in the field during the inspection might be made at the former master meter system facilities, just as they might be made anywhere else in the unit. In general, however, unless problems are discovered, the facilities obtained from the master meter operator will not be a focus of the inspection.

¹⁰¹Some utilities, as a standard practice, require the systems that they take over to be replaced to ensure that they meet current Federal standards.

averaged approximately \$3,900 per building.¹⁰²

In addition to the cost of the modifications required to bring a master meter system into compliance with the regulations, a master meter system operator may also be required by the utility to pay for the installation of individual meters (and system changes associated with the installation of meters), if the system is not already sub-metered. For instance, in the late 1980s, Michigan Consolidated Gas Company, requires master meter systems without sub-metering that are converting to individual meters to pay for

...(a) installation of meters and regulators, but not the cost of meters and regulators, (b) relocation of any service lines, (c) additional service lines, (d) additional main in excess of twice the increased annual revenue resulting from conversion, and (e) removal of existing facilities.¹⁰³

A master meter system, it might be noted, would be credited by Michigan Consolidated Gas Company for the "salvage value of the facilities removed except meters and regulators."¹⁰⁴

One inducement that can be used to encourage master meter operators who may not be in full compliance with the pipeline safety regulations (or are not sure whether they are in compliance) to let their systems be taken over by their gas suppliers is to point out the cost of bringing a system into compliance with the Minimum Federal Safety Standards. These costs can be substantial. Master meter operators can avoid some (though, as mentioned earlier, not all) of these costs by turning their systems over to their gas suppliers. For example, operators can avoid most, if not all, of the cost of an O&M plan, because it costs relatively little for a gas utility to modify its existing O&M plan to include the pipeline facilities obtained from a master meter operator.¹⁰⁵ Because of the cost savings that can be realized, conversion can often make economic sense in spite of the costs that may be incurred by the master meter system operator. It makes even more economic sense when the civil penalties that can be imposed for failure to bring a system into compliance are taken into consideration.

Many regulators at both the Federal and state levels appear to feel that the takeover of master meter systems by the utility is the best way to handle the safety problems of master meter systems. In a number of states (see Exhibit 9), regulators encourage master meter systems to allow their system to be taken over by the utility. In many cases, some of which were discussed earlier (see Section 4.3.1), these regulators have been successful in their efforts. It should be noted that no state currently requires that master meter systems be taken over by their gas supplier. Any takeovers are voluntary both on

¹⁰²Enclosures with letter from Philip Sher, Associate Engineer, Connecticut Department of Public Utility Control, to Paul Zebe, Volpe Center, December 18, 1989.

¹⁰³Section B5.3(D), Rules of Service, Michigan Consolidated Gas Company, March 17, 1987.

¹⁰⁴Section B5.3(D), Rules of Service, Michigan Consolidated Gas Company, March 17, 1987.

¹⁰⁵Telephone conversation with Richard Sanders, Chief, Pipeline Safety Division, Transportation Safety Institute, U.S. DOT, February 20, 1990.

the part of the local gas utility and on the part of the master meter system.

There may be some resistance to the takeover of master meter systems by their suppliers. This resistance may come from any one of three sources: the utilities, the master meter operators, or the master meter system customers.

Some utilities are reportedly concerned about liability.¹⁰⁶ This concern can probably be overcome if it is left to the master meter operator to bring the system up to specifications before it is transferred to the utility. Utilities are also concerned about getting paid for the gas they supply.¹⁰⁷ When a master meter system is the customer, one person, the system's operator, is responsible for paying for the gas. When a utility takes over a master meter system, each of the customers of the former master meter system becomes individually responsible for paying for the gas that they use.

The cost to the utilities will increase if they take over the master meter systems that they supply with natural gas. This may also be a cause for utilities to resist taking over master meter systems. One cost to utilities that will increase if they take over master meter systems is the cost of billing--that is, the cost of preparing and mailing bills, and the cost of processing the paid bills that are received. This will be the result of having to send bills for the gas that is sold to each household, rather than just to owners of the master meter systems. Another related cost that may also go up is the cost of collecting on unpaid bills.

Master meter operators may resist giving up their systems because they would be giving up the profits they make on the gas they provide their customers. This resistance, however, may not be too significant. It is reported that with stable gas prices, many systems are profitable, but with relatively unstable gas prices, systems are quite unprofitable.¹⁰⁸ Recently, systems probably have not been particularly profitable because of increases in gas prices.

Some operators may switch fuels rather than let their systems be taken over by the pipeline utility. In Missouri, after the Missouri Public Service Commission issued its order requesting that utilities take over master meter systems for one dollar after the master meter system had been brought up to specifications, some systems are reported to have switched to propane or propane/air mixtures.¹⁰⁹

Customers may object to the takeover of master meter systems by a utility company if they believe

¹⁰⁶Telephone conversation with Fred Joyner, Regional Chief, Southern Region, Office of Pipeline Safety, U.S. DOT/RSPA.

¹⁰⁷Telephone conversations with Richard Sanders, Chief, Pipeline Safety Division, Transportation Safety Institute, U.S. DOT/RSPA, and Fred Joyner, Regional Chief, Southern Region, Office of Pipeline Safety, U.S. DOT/RSPA.

¹⁰⁸Telephone conversation with Richard Sanders, Chief, Pipeline Safety Division, Transportation Safety Institute, U.S. DOT/RSPA.

¹⁰⁹Telephone conversation with Ed Ondak, Regional Director, Central Region, Office of Pipeline Safety, U.S. DOT/RSPA.

that gas costs will increase. Many, if not most, master meter systems purchase gas at a discount from their supplier. Sometimes, all or part of this discount is passed on to the system's customers. When this is the case, the customer's cost of gas can be expected to rise once a system is taken over by the utility. It should be noted that in some instances, the cost of gas from the master meter system may be higher than the cost of gas from the local utility. When this is the case, the cost of gas to the customer will go down as a result of the takeover of the master meter system.

6.4. REQUIRE THAT MASTER METER OPERATORS TURN OVER OPERATION OF THEIR SYSTEMS TO LOCAL GAS UTILITIES

A third way to get local gas utilities to assume responsibility for master meter systems would be to require master meter operators to turn over the operation of their systems to local gas utilities. Under this approach, the local gas utilities assume operational control of the master meter systems, but the master meter operators retain ownership of their systems. Master meter system operators would be responsible for reimbursing the local gas utilities for their work.

The safety impact of this approach would be very similar to that resulting from master meter system conversion (see Section 6.3). The approach would ensure that natural gas professionals who understand the requirements of the Minimum Federal Safety Standards would operate the master meter facilities. As a consequence, the safety of those facilities should be comparable to the safety of those of local gas utilities.

The cost of this approach would also be very similar to that of master meter system conversion. It is likely, however, that 100 percent of those costs would be borne by the master meter system operators, themselves, who would be likely to pass them on to the ultimate consumers of the gas through higher rents and fees. Economies of scale available to the local gas utilities should mean that the costs to master meter operators would generally be less than if they operated their systems in a manner consistent with the Minimum Federal Safety Standards but independently of their local gas utilities.

7. FINDINGS

7.1. INTRODUCTION

This report has examined master meter systems in the U.S., their safety regulation, and the need for an improved inspection program for the systems. The principal findings of the report are summarized below.

7.2. KEY FINDINGS

The key findings of this study concern (1) change over time in the number of master meter systems, (2) the expanding assumption of the responsibility for the safety of those systems by the states, and (3) the ongoing efforts to improve and ensure the safety of those systems.

7.2.1. Number of Master Meter Systems

There were an estimated 8.3 thousand master meter systems in the U.S. in 1999. This represents a decline from 1979, when it was estimated that there were approximately 81 thousand master meter systems in operation. This decline in the number of master meter systems is due, at least in part, to (1) efforts by master meter system operators to make their customers directly accountable for the cost of the natural gas that they use; and (2) efforts by regulators to get master meter systems to merge with the utilities that supply the systems with gas.

7.2.2. Responsibility for the Safety of Master Meter Systems

Responsibility for master meter system safety has shifted over the years to the point where the state agencies are now very much in the majority (OPS favors this on the basis that jurisdiction of this kind is best handled by the states, and urges states accordingly). At the end of 1999, 43 states exercised either partial or full jurisdiction over master meter system safety. The figures for ten years earlier, 1989, were 37 with either partial or full jurisdiction. This upward trend in the number of states assuming full responsibility for the safety of their pipeline systems is expected to continue. Of the seven states not undertaking partial or full responsibility for their master meter systems, at least two have no such systems within their borders.

7.2.3. Ongoing Efforts to Improve and Ensure the Safety of Master Meter Systems

In 1999, master meter systems were inspected at least once a year in 19 states (Alabama, Colorado, Delaware, Florida, Illinois, Indiana, Kansas, Louisiana, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, and Tennessee); at least once every two years in 7 states (Arizona, Arkansas, Nevada, New

York, Maryland, Ohio, and Washington);¹¹⁰ and at least once every three years in 8 states (Kentucky, Nebraska, New Mexico, Oklahoma, Oregon, Texas, West Virginia, and Wisconsin). Inspection occurs at intervals greater than three years in two states (California and Virginia). Intervals were irregular in five states (Alaska, Hawaii, Idaho, Massachusetts, and Pennsylvania), as well as Puerto Rico (for further explanation of "irregularly" see Exhibit 8). Of the remaining eight states, two are in the process of doing an initial identification of master meter systems and have not yet established an inspection frequency (Montana and Utah), six states (Connecticut, Iowa, Michigan, Vermont, Maine, and Wyoming) and the District of Columbia have no master meter systems, and definitive information is unavailable for one state (Georgia).

In addition to inspection, the OPS and states engage in a number of activities to help improve and ensure the safety of master meter systems. Included among these activities are formal and informal training programs and the production and distribution of training and informational aides, such as the OPS's *Guidance Manual for Operators of Small Gas Systems*.

¹¹⁰Section 108a of the Pipeline Safety Reauthorization Act of 1988 requires the OPS, if funds are available, to inspect gas distribution systems at least once every two years.

8. RECOMMENDATION

8.1 CONCLUDING RECOMMENDATION

The concluding recommendation of this report is that OPS continue the present policy of (1) pressing for all states to have full jurisdiction over master meter system safety, (2) where a state has not taken jurisdiction, continuing with OPS inspections of those master meter systems (including enforcement action as needed) where in OPS's judgement there is a likelihood of probable violations or there are other safety concerns, and (3) investigating master meter system incidents not being covered by another qualified agency. This recommendation is based on the following:

- The declining number of master meter systems, as summarized in 7.2.1
- Increasing state involvement in improving and ensuring master meter system safety, as summarized in 7.2.2 and 7.2.3, and
- The efforts being made to ban new master meter systems, and encourage local gas distribution companies to take over the responsibility for the safety of existing ones, as discussed in Sections 4.3, 6.2, and 6.3.

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APPENDICES

**APPENDIX A.
ESTIMATED NUMBER OF GAS MASTER METER SYSTEMS
IN OPERATION IN 1979**

State	95 Percent Confidence Interval			State	95 Percent Confidence Interval		
	Lower Limit	Expected	Upper Limit		Lower Limit	Expected	Upper Limit
Alabama	376	468	850	Nebraska	906	1,242	2,574
Alaska	na	28	na	Nevada	105	108	160
Arizona	527	975	1,423	New Hampshire	27	35	55
Arkansas	888	1,756	2,624	New Jersey	unk	unk	unk
California	11,877	12,935	24,986	New Mexico	89	421	753
Colorado	1,611	3,623	5,635	New York	238	345	715
Connecticut	na	0	na	North Carolina	369	428	772
Delaware	16	16	16	North Dakota	107	113	178
Florida	172	277	506	Ohio	89	207	585
Georgia	365	422	587	Oklahoma	836	2,309	4,761
Hawaii	unk	unk	unk	Oregon	na	4	na
Idaho	3	3	3	Pennsylvania	681	1,171	2,192
Illinois	474	1,142	2,388	Rhode Island	29	30	40
Indiana	105	115	125	South Carolina	166	252	338
Iowa	15	27	54	South Dakota	591	966	1,341
Kansas	463	1,127	1,791	Tennessee	318	430	542
Kentucky	484	1,019	1,554	Texas	23,553	39,404	55,255
Louisiana	434	2,623	4,812	Utah	196	196	196
Maine	0	0	0	Vermont	0	0	0
Maryland	207	214	303	Virginia	588	762	1,362
Massachusetts	241	386	531	Washington	29	33	37
Michigan	459	1,136	2,816	West Virginia	186	514	1,504
Minnesota	70	72	166	Wisconsin	1,051	1,317	2,176
Mississippi	139	178	270	Wyoming	459	710	961
Missouri	111	245	359	D.C.	85	85	85
Montana	1,004	1,046	1,111	Total for U.S. ^a	64,738	80,915	101,901

Key:

na = Not applicable
unk = No data received
a = Estimates include nothing for Hawaii or New Jersey.

Source of information: SASC, pp. 5-15 to 5-17.

APPENDIX B
U.S. CODE, TITLE 49, SECTIONS 60105 AND 60106

Sec. 60105. State pipeline safety program certifications

(a) General Requirements and Submission. - Except as provided in this section and sections 60114 and 60121 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation) that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) Contents. - Each certification submitted under subsection (a) of this section shall state that the State authority -

- (1) has regulatory jurisdiction over the standards and practices to which the certification applies;
 - (2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;
 - (3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title;
 - (4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;
 - (5) may require record maintenance, reporting, and inspection substantially the same as provided under section 60117 of this title;
 - (6) may require that plans for inspection and maintenance under section 60108 (a) and (b) of this title be filed for approval;
- and
- (7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 60120 and 60122(a)(1) and (b)-(f) of this title.

(c) Reports. - (1) Each certification submitted under subsection (a) of this section shall include a report that contains -

- (A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;
- (B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than an amount the Secretary establishes (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of

the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) Application. - A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) Monitoring. - The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) Rejections of Certification. - If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a hearing before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

Sec. 60106. State pipeline safety agreements

(a) General Authority. - If the Secretary of Transportation does not receive a certification under section 60105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall -

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 60108 (a) and (b) of this title.

(b) Notification. - Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(c) Monitoring. - The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary

under this subsection.

(d) Ending Agreements. - The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a hearing before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

APPENDIX C

TITLE 83: PUBLIC UTILITIES CHAPTER I: ILLINOIS COMMERCE COMMISSION SUBCHAPTER d: GAS UTILITIES

PART 520 TRAINING PROGRAMS FOR NATURAL GAS SYSTEM OPERATING PERSONNEL (GENERAL ORDER 204)

Section

- 520.10 Training Procedures
- 520.20 Definitions
- 520.30 "Natural Gas System"

AUTHORITY: Implementing Section 6 and authorized by Section 3 of the "Illinois Gas Pipeline Safety Act" (Ill. Rev. Stat. 1985, ch. 111 2/3, pars. 556 and 553).

SOURCE: Adopted at 4 Ill. Reg. 8, p. 134, effective February 18, 1980; codified at 8 Ill. Reg. 5147.

Section 520.10 Training Procedures

- a) In order to reasonably assure the safety and well being of the populace, each natural gas system operator in Illinois shall develop training procedures which will assure that its field employees engaged in construction, operation, inspection and maintenance of the gas system are properly trained.
 - 1) The procedures shall contain adequate descriptions of the types of training each job classification requires including those of field foremen, field crew leaders, leak inspectors, new construction inspectors, servicemen and corrosion technicians and/or equivalent classifications.
 - 2) The procedures shall include scheduling of verbal instruction and/or on-the-job training for each job classification.
 - 3) The procedures shall include provisions for evaluating the performance of personnel to assure their competency in performing the work assigned to them.
 - 4) The procedures shall include subject matter relating to recognition of potential hazards, and actions to be taken toward prevention of accidents.
 - 5) The procedures shall be updated periodically to include new materials, new methods of operation and installation, and changes in general procedures.

- 6) The procedures shall be made a part of the gas system's operation, inspection and maintenance plans, and shall be filed with the Commission.
 - 7) The procedures shall be developed and ready for implementation within one year of the date of adoption of this Part.
- b) Operators of small gas systems, such as municipal gas systems and master meter gas systems, may satisfy the requirements of Section 520.10(a) if the gas system personnel attend regularly scheduled instructional courses held by utility companies or participate in courses such as the Institute of Gas Technology (IGT) Gas Distribution Home Study Course, or programs developed and presented by community colleges, vocational schools, universities, consultants or other recognized gas distribution oriented agencies, which includes the procedures outlined in Section 520.10(a) which will pertain to their particular system.

Section 520.20 Definitions

As used in this Part, unless the context requires otherwise, the terms defined in Sections 520.10 through 520.30, inclusive, have the meanings ascribed therein.

Section 520.30 "Natural Gas System"

"Natural Gas System" means transmission or distribution facilities that transport natural gas as defined in Sections 1-3 of the Illinois Gas Pipeline Safety Act (Ill. Rev. Stat. 1981, ch. 111 2/3, pars. 551-553).

***** End of Document*****

WESTOVER EXHIBIT PQ-34 (CONFIDENTIAL)

WESTOVER EXHIBIT PQ-35 (CONFIDENTIAL)

WESTOVER EXHIBIT PQ-36



November 3, 2022

VIA E-MAIL

David P. Zambito

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Stephanie M. Wimer, Esq.
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Pennsylvania Public Utility Commission
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RE: Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement v. Westover Property Management Company, L.P. d/b/a Westover Companies; Docket Nos. C-2022-3030251 and P-2020-3018499

Westover Property Management Company, L.P., d/b/a Westover Companies' Supplemental Answers to the Interrogatories and Requests for Production of Documents Set I, Nos. 3 and 4, Propounded by the Bureau of Investigation and Enforcement

Dear Senior Prosecutor Wimer:

Enclosed please find the above-referenced Supplemental Answers to Interrogatories and Requests for Production of Documents Set I of the Bureau of Investigation and Enforcement.

Copies have been served as shown on the attached Certificate of Service.

Please contact me if you have any question or concern. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

BY: DAVID P. ZAMBITO
Counsel for *Westover Property Management, L.P.*
d/b/a Westover Companies

DPZ:kmg
Enclosures

cc: Per Certificate of Service
Rosemary Chiavetta (*Cover Letter and Certificate of Service Only*)
Peter Quercetti, Vice President of Operations Management, Westover Companies
Alexander Stefanelli, CFO, Westover Companies

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

v.

Westover Property Management Company, L.P.
d/b/a Westover Companies

:
:
:
:
:
:
:

Docket Nos. C-2022-3030251
P-2021-3030002

CERTIFICATE OF SERVICE

I hereby certify that I have this 3rd day of November, 2022 served the foregoing **Westover Property Management Company, L.P. d/b/a Westover Companies' Supplemental Answers to the Interrogatories and Requests for Production of Documents Set I, No. 3 and 4, Propounded by the Bureau of Investigation and Enforcement**, upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA E-MAIL AND FIRST CLASS MAIL

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David P. Zambito, Esq.
Counsel for *Westover Property Management Company, L.P. d/b/a Westover Companies*

VERIFICATION

I, Peter D. Quessetti, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: November 3, 2022

Peter D. Quessetti

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

SET I

3. In reference to Paragraph 7(B) of Westover's January 25, 2022 Answer to I&E's Complaint:
- a. Identify the names of the nine (9) cases where the natural gas distribution company delivers gas to meters on the building and Westover distributes gas within the building;
 - b. For each of the cases identified above, describe the type of pipeline facilities that Westover operates in its distribution of gas to tenants; and
 - c. For each of the cases identified above, describe the precise configuration of Westover's pipeline facilities, starting with a description of where and how they connect to the natural gas distribution company meter and where and how they distribute gas to the tenants.

Original Answer:

- a.
 - 1. Lansdale Village Apartments
 - 2. Woodland Plaza
 - 3. Concord Court Apartments
 - 4. Fox Run Apartments
 - 5. Paoli Place Apartment
 - 6. Black Hawk Apartments
 - 7. Country Manor Apartments
 - 8. Mill Creek Village Apartments II
 - 9. Norriton East Apartments
- b. Please see Exhibit I-3. *Also see* Complete Report in Exhibit I-18.
- c. Please see Exhibit I-3. *Also see* Complete Report in Exhibit I-18.

Answer provided by: Alexander Stefanelli, Chief Financial Officer, The Westover Companies

Date: May 2, 2022

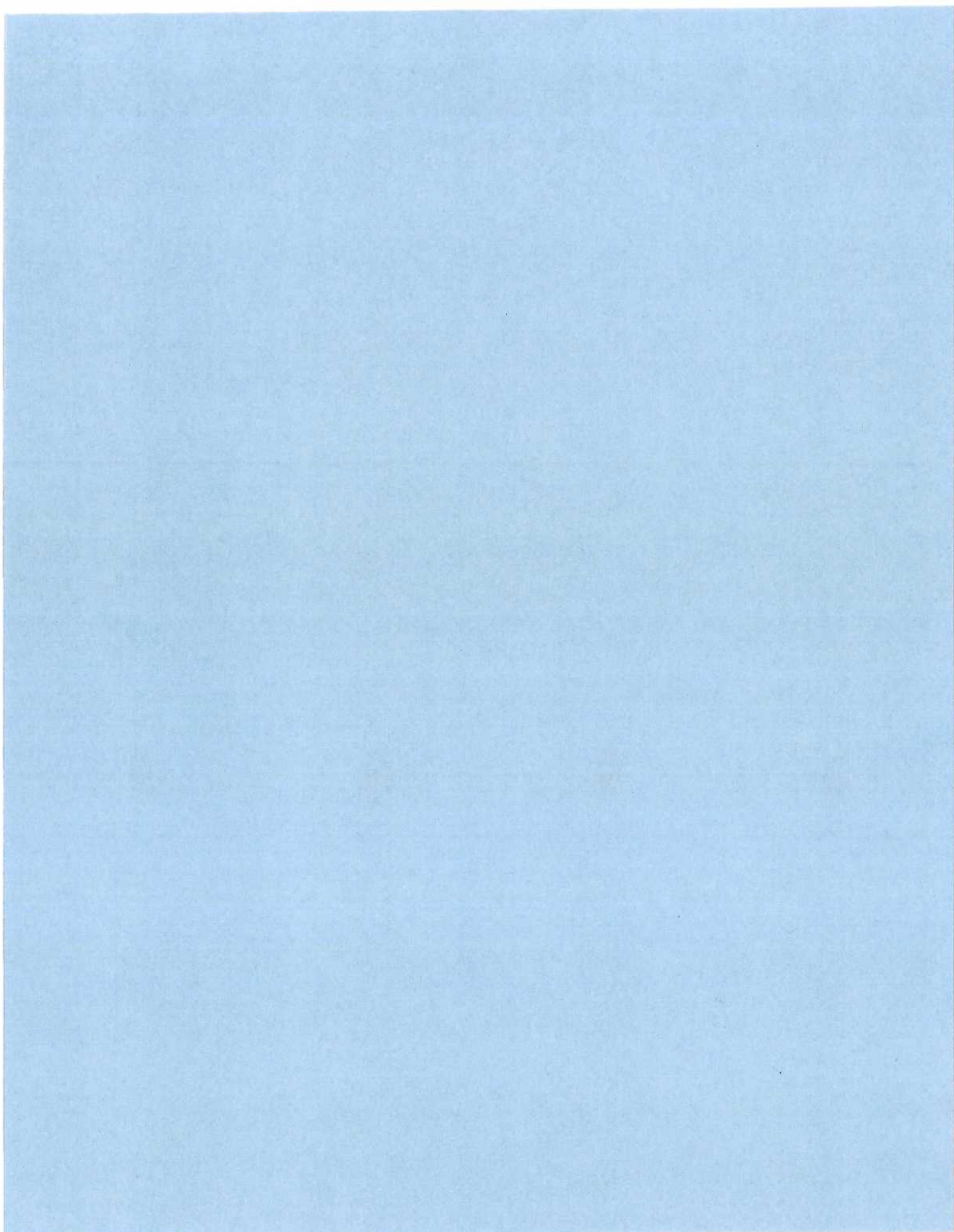
Supplemental Answer:

Westover has been working with the applicable natural gas distribution company (“NGDC”). The paragraphs below describe the status of each apartment complex:

1. Lansdale Village Apartments – Westover personnel met with PECO personnel. The fuel line has been dug up, inspected and painted, and a window well has been installed so that the pipe is not underground.
2. Woodland Plaza - UGI has inspected the meters. Westover cleaned up the meters so that they are not sitting in dirt. Westover also cleaned gas lines and painted them.
3. Concord Court Apartments – Westover personnel met with PECO personnel. No changes were necessary.
4. Fox Run Apartments – Westover personnel inspected the facilities at Fox Run; Westover personnel have set up an inspection with PECO to inspect PECO’s equipment. Building F has a gas line that has been buried with mulch over the years. The gas line will be dug up, inspected and painted.
5. Paoli Place Apartments – To be clear, there are two properties associated with this complex.
 - a. 27 East Central Avenue: Westover personnel met with PECO personnel. Westover will have to move the shut off valves and regulators to the outside of the building (they are currently inside the building). Westover may have to make a few windows inoperable. A gas application has been submitted for this work.
 - b. 55 South Valley Road: Westover personnel met with PECO personnel. PECO will need to run a new gas main into the property. At buildings A, B, C and D, there is a PECO gas meter at each building. At buildings E, F &G, Westover currently owns underground fuel lines. Westover has submitted a gas application and has been working with PECO engineers to run a new gas main and add meters at each building.
6. Black Hawk Apartments – Westover personnel met with PECO personnel. Westover may have to make a couple boiler windows inoperable. Westover is also raising a couple of fuel lines to make sure they do not sit close to the dirt.
7. Country Manor Apartments – Westover personnel will meet with PECO personnel on November 2, 2022.
8. Mill Creek Village Apartments II - Westover personnel will meet with PECO personnel on November 2, 2022.
9. Norriton East Apartments – Westover personnel inspected the system at Norriton East; Westover is setting up an inspection with PECO personnel. Westover does not have underground piping at this complex. The meters are located inside the building.

Answer provided by: Peter Quercetti, Vice President of Operations Management, The Westover Companies

Date: November 3, 2022

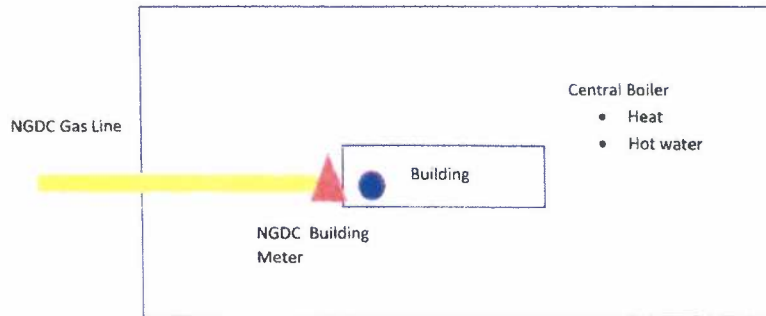


Natural Gas Delivered by NGDC Meters

**(Landsdale Village Apartments,
Woodland Plaza
and Concord Court Apartments**

1. Natural Gas delivered by NGDC to Meters on the Building. Building has central boiler for Heat and Hot Water. Residents are billed with Allocation (RUBS)

	Ultimate Consumer of the Natural Gas			Resident Pays
	Heat	Hot Water	Cooking	
LANSDALE VILLAGE APARTMENTS	Westover	Westover	N/A (Electric)	Westover via Allocation
WOODLAND PLAZA	Westover	Westover	Resident	Westover via Allocation
CONCORD COURT APARTMENTS	Westover	Westover	N/A (Electric)	Westover via Allocation

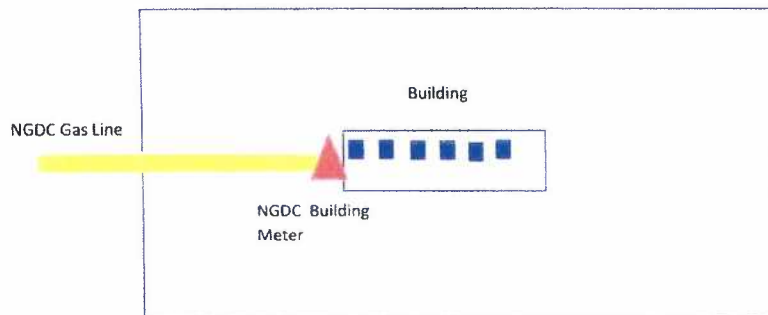


Natural Gas Delivered by NGDC Meters

**(Fox Run Apartments and
Paoli Place Apartments)**

2. Natural Gas delivered by NGDC to Meters on the Building. Each Apartment has a submeter to calculate NG bill

	Ultimate Consumer of the Natural Gas			
	Heat	Hot Water	Cooking	Resident Pays
FOX RUN APARTMENTS	Resident	Westover	N/A (Electric)	Westover via Meter
PAOLI PLACE APARTMENTS				
Paoli North Bldgs. A - K	Resident	Westover	N/A (Electric)	Westover via Meter
Paoli North Bldgs. L - R	Resident	Resident	N/A (Electric)	NDGC Direct
Paoli South (Arms) Bldgs. A - D (w/ the exception of AB01)	Westover	Westover	Resident	Included in Rent
South Valley Townhomes Bldgs. A - G (with the exception of VA07 & VB07)	Resident	Resident	N/A (Electric)	NDGC Direct
AB01				
VA07			N/A (Electric)	
VB07				

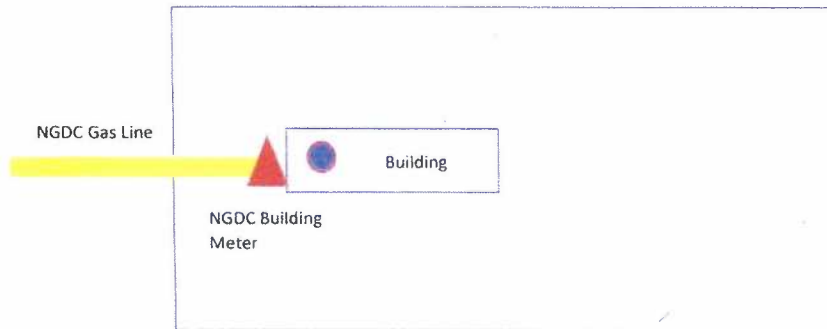


Natural Gas Delivered by NGDC Meters

**(Black Hawk Apartments,
County Manor Apartments,
Norriton East Apartments and
Mill Creek Village Apartments II)**

3. Natural Gas delivered by NGDC to Meters on the Building. Building has central boiler for Heat and Hot Water. Included in Rent

	Ultimate Consumer of the Natural Gas			Resident Pays
	Heat	Hot Water	Cooking	
BLACK HAWK APARTMENTS	Westover	Westover	Electric	Included in Rent
COUNTRY MANOR APARTMENTS	Westover	Westover	Resident	Included in Rent
NORRITON EAST APARTMENTS	Westover	Westover	Resident	Included in Rent
MILL CREEK VILLAGE APARTMENTS II	Westover	Westover	Resident	Included in Rent



INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
SET I

4. In reference to Paragraph 7(C) of Westover's January 25, 2022 Answer to I&E's Complaint:
- a. Identify the names of the eight (8) cases where the natural gas distribution company delivers gas to a meter for the apartment complex;
 - b. For each of the cases identified above, describe the type of pipeline facilities that Westover operates in its distribution of gas to tenants; and
 - c. For each of the cases identified above, describe the precise configuration of Westover's pipeline facilities, starting with a description of where and how they connect to the natural gas distribution company meter and where and how they distribute gas to the tenants.

Answer:

- a.
 1. Mill Creek Village Apartments I
 2. Oak Forest Apartments
 3. Gladstone Towers Apartments
 4. Main Line Berwyn Apartments
 5. Lansdowne Towers Apartments
 6. Hillcrest Apartments
 7. Valley Stream Apartments
 8. Park Court Apartments
- b. Please see Exhibit I-4. *Also see* Exhibit I-18.
- c. Please see Exhibit I-4. *Also see* Exhibit I-18.

Answer provided by: Alexander Stefanelli, Chief Financial Officer, The Westover Companies

Date: May 2, 2022

Supplemental Answer:

Westover has been working with the applicable natural gas distribution company (“NGDC”). The paragraphs below describe the status of each apartment complex:

1. Mill Creek Village Apartments I - PECO will install an NGDC Building Meter at each building, remove the NGDC Master Meter and take over the underground gas piping. A gas application has been submitted. PECO is working on the gas design.

2. Oak Forest Apartments - UGI will install an NGDC Building Meter at each building, remove the NGDC Master Meter, and take over underground gas piping. The work is underway. UGI may have to run all new piping or weld bypasses in.

3. Gladstone Towers Apartments – This project is in the planning stage. Extensive utility surveys will need to be completed by Westover for PECO design. Westover has signed a contract to have a private company mark out the property. Westover will be marking out the entire property so that PECO can complete its gas design. PECO will install meters for each apartment, remove PECO’s master meter, and take over underground gas piping.

4. Main Line Berwyn Apartments - PECO will install an NGDC Building Meter at each building, remove the NGDC Master Meter, and take over underground gas piping. A gas contract has been signed. Westover is waiting for PECO to commence the work.

5. Lansdowne Towers Apartments - This project is in the planning stage. Extensive utility surveys will need to be completed by Westover for PECO design. Westover has signed the contract to have a private company mark out the property. Westover will be marking out the entire property so that PECO can complete its gas design. PECO will install meters for each apartment, remove the PECO master meter and take over underground gas piping.

6. Hillcrest Apartments - This project is in the planning stage. Extensive utility surveys will need to be completed by Westover for PECO design. Westover has signed the contract to have a private company mark out the property. Westover will be marking out the entire property so that PECO can complete its gas design. PECO will install meters for each apartment, remove the PECO master meter and take over underground gas piping.

7. Valley Stream Apartments - PECO will install an NGDC Building Meter at each building, remove the NGDC Master Meter, and take over underground gas piping. A gas application has been submitted. PECO is working on the gas design.

8. Park Court Apartments - UGI has installed an NGDC Building Meter at each building. Westover has signed a contract to remove any Westover-owned underground gas lines and re-pipe above ground.

In addition, please note that Table 7, attached to the Original Answer, contained a diagram of the facilities at the Carlisle Park Apartments. Westover’s gas system at that apartment complex is being modified as follows: UGI will install an NGDC Building Meter at each building, remove the NGDC Master Meter, and take over underground gas piping.

Westover personnel met with UGI personnel on November 1, 2022 and UGI is currently working on the gas design.

In summary, when work is completed at these apartment complexes, no complex will have an NGDC Master Meter (as shown on diagrams 5-8, attached to the Original Answer to this Interrogatory). Instead, all apartment complexes discussed in this Supplemental Answer will be configured as shown in diagrams 1-3, attached to the Original Answer to Interrogatory Set I, No. 3.

Answer provided by: Peter Quercetti, Vice President of Operations Management, The Westover Companies

Date: November 3, 2022

WESTOVER EXHIBIT PQ-37 (CONFIDENTIAL)

VERIFICATION

I, Peter D. Quessetti, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: April 17, 2023

Peter D. Quessetti

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Christopher P. Pell**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	Docket Nos. C-2022-3030251
v.	:	P-2021-3030002
	:	
Westover Property Management Company, L.P.	:	

**REBUTTAL TESTIMONY OF ALEXANDER
STEFANELLI ON BEHALF OF WESTOVER
PROPERTY MANAGEMENT COMPANY, L.P.
D/B/A WESTOVER COMPANIES**

Dated: April 17, 2023

Westover St. No. 2-R

**REBUTTAL TESTIMONY OF
ALEXANDER STEFANELLI**

INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS FOR THE RECORD.

A. My name is Alexander Stefanelli and my business address is 550 American Avenue, Suite 1, King of Prussia, PA 19406.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by Westover¹ as the CFO.

Q. HAVE YOU SUBMITTED ANY OTHER TESTIMONY IN THIS PROCEEDING?

A. Yes. I submitted Direct Testimony, Westover Statement No. 2, on February 22, 2023.

Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A. I will (1) update my Direct Testimony and (2) respond to portions of the Direct Testimony of Scott Orr, who submitted Direct Testimony on behalf of I&E.

UPDATE OF DIRECT TESTIMONY

Q. PLEASE EXPLAIN WHY YOU NEED TO UPDATE YOUR DIRECT TESTIMONY.

A. In my Direct Testimony, pp. 21-22, I discussed the Act 127 Registrations that Westover filed in 2021 and 2022. On March 28, 2023, Westover filed its Act 127 Registration for calendar year 2022 at Docket No. A-2021-3028141. **Westover Exhibit AS-19.** The

¹ Unless otherwise indicated, all capitalized terms and acronyms used in my Rebuttal Testimony have the same meanings as set forth in my Direct Testimony.

1 apartment complexes and commercial properties that are included on Exhibit D of this
2 filing are the same as the apartment complexes and commercial properties that were listed
3 on Westover’s 2021 and 2022 Act 127 Registrations. **Westover Exhibits AS-14 through**
4 **AS-16.** I should note that the cover letter to this filing indicated that Westover filed this
5 form under protest; by filing this form, Westover did not waive its claim that the Systems
6 involved in this proceeding are not subject to regulation by the Commission. **Westover**
7 **Exhibit AS-19.**

8
9 **THRESHOLD ISSUE**

10 **Q. AT PAGE 5 OF YOUR DIRECT TESTIMONY, YOU STATE THAT THE**
11 **THRESHOLD ISSUE PRESENTED IN THIS CASE IS WHETHER THE**
12 **SYSTEMS ARE SUBJECT TO COMMISSION REGULATION PURSUANT TO**
13 **ACT 127. DO YOU WISH TO MAKE ANY CHANGES IN THIS TESTIMONY,**
14 **BASED ON MR. ORR’S DIRECT TESTIMONY?**

15 **A.** No. I continue to believe that the threshold issue in this case is whether the Commission
16 has authority to regulate Westover’s Systems. If it does not, Westover had no obligation
17 to cooperate in I&E’s investigation and Westover has no obligation to comply with Act
18 127 or the Federal regulations concerning pipeline safety.

19 I am advised by counsel that the Commission only has the authority given to it by
20 the General Assembly, either explicitly or implicitly. Mr. Orr’s testimony seems to argue
21 that Westover’s Systems pose a safety risk, therefore, the Commission should regulate
22 them. The vast majority of Mr. Orr’s testimony alleges “safety issues or concerns,” leading
23 Mr. Orr to suggest theoretically that building occupants face a “substantial risk” that will

1 increase as the Systems age. I&E Statement No. 1 pp. 66-67. I am advised by counsel that
2 this logic is flawed; either the law gives the Commission authority to regulate the Systems
3 or it does not. Westover has consistently argued in this proceeding that Act 127 does not
4 give the Commission authority to regulate the Systems.

5
6 **Q. ON PAGE 7 OF HIS DIRECT TESTIMONY, MR. ORR DISCUSSES AN AUGUST**
7 **23, 2021 LETTER THAT YOU SIGNED. MR. ORR STATES “NOTABLY, MR.**
8 **STEFANELLI STATED THAT WESTOVER FULLY ACKNOWLEDGES THE**
9 **COMMISSION’S SAFETY DIVISION’S JURISDICTION OVER CERTAIN**
10 **FACILITIES OWNED AND OPERATED BY WESTOVER.” PLEASE RESPOND.**

11 **A.** I wrote this letter before Westover retained experienced public utility counsel. As I
12 explained in my Direct Testimony, p. 22, Westover did not retain public utility counsel
13 until October, 2021.

14 Nevertheless, I am advised by counsel that parties cannot confer jurisdiction on the
15 Commission by agreement. Again, either Act 127 gives the Commission jurisdiction to
16 regulate the Systems or it does not. Westover believes it does not.

17
18 **SCOPE OF THIS PROCEEDING**

19 **Q. MR. ORR TESTIFIES THAT JAMESTOWN VILLAGE IS A “MASTER METER**
20 **SYSTEM.” PLEASE RESPOND.**

21 **A.** First, it is my understanding that this testimony exceeds the scope of this proceeding. I am
22 advised by counsel that the Administrative Law Judge (“ALJ”) issued an order limiting the
23 scope of this proceeding to the specific apartment complexes identified in (a) I&E’s
24 Complaint, (b) Westover’s Answer and New Matter to the Complaint, and (c) Westover’s

1 Amended Petition. I&E's Complaint specifically named 17 alleged "master meter
2 systems." Jamestown Village was not one of them. Complaint ¶ 26. Westover did not
3 mention Jamestown Village in its Petition for Declaratory Order, and Jamestown Village
4 is not included on Westover's Act 127 Registration. The only mention of Jamestown
5 Village in Westover's Answer and New Matter to the Complaint concerns the Act 127
6 Registration that was filed and withdrawn for this complex during 2021. Consequently, it
7 seems to me that Mr. Orr is trying to expand the scope of this proceeding improperly by
8 testifying about additional apartment complexes.

9 Second, Mr. Orr admits that I&E's informal investigation included the apartment
10 complex at Jamestown Village. I&E Statement No. 1 p. 10. I&E's Complaint, however,
11 did not name Jamestown Village as an alleged "master meter system." Complaint ¶ 26. In
12 my opinion, this was because I&E agreed with Westover that Jamestown Village is not a
13 "master meter system." Westover withdrew the Act 127 Registration for Jamestown
14 Village and filed an Act 127 Registration for Westover in August 2021 (which was
15 corrected in September 2021) which did not include Jamestown Village. **Westover**
16 **Exhibits AS-11 through AS 15.** I&E did not object to any of these filings.

17 Mr. Orr's Direct Testimony provides no new facts that explain I&E's change of
18 position. As I explained in my Direct Testimony, I&E's repeated change of position was
19 one factor giving rise to Westover's skepticism about I&E's claim that Westover's Systems
20 are "master meter systems." Westover Statement No. 2 p. 17. Westover attempted to
21 resolve this uncertainty by filing the Original Petition in December, 2021. Yet, I&E still
22 saw fit, after Westover filed the Original Petition, to file a Formal Complaint against
23 Westover and seek civil penalties.

1 This point has important implications for the remedy in this case, in the event that
2 the Commission finds that Westover does operate “master meter systems.” If I&E’s
3 Pipeline Safety Division had such a hard time deciding whether Jamestown Village is a
4 “master meter system,” it was certainly reasonable for Westover (a property management
5 company with much less experience with the Federal pipeline safety laws) to be uncertain
6 as to whether its Systems are “master meter systems” and to file a Petition for Declaratory
7 Order asking the Commission to resolve this uncertainty. Westover’s reasonable
8 uncertainty should be considered in determining whether to impose a civil penalty on
9 Westover and, if so, the amount of the civil penalty.

10 In this regard, I note that, at the meeting of September 20, 2021, Mr. Orr instructed
11 our consultant, Oak Tree (specifically, Paul Metro of Oak Tree) to visit each Westover
12 property to determine which sites are “master meter systems.” This surprised me,
13 considering that Mr. Orr had already visited so many Westover properties. Why did he
14 need Mr. Metro to say what Systems are jurisdictional? He should have known, based on
15 his visits.

16 Mr. Metro began researching the issue and sent me a summary of his research.
17 **Westover Exhibit AS-20.** Based on his review of documents, he believed that Jamestown
18 Village was not jurisdictional. He noted, however, that he needed to see each apartment
19 complex to make the decision regarding jurisdiction. Shortly thereafter, Westover retained
20 public utility counsel to represent it in I&E’s investigation, and Westover did not have Mr.
21 Metro pursue the issue further.

1 **COMMISSION IMPLEMENTATION OF ACT 127**

2 **Q. AT PAGE 3 OF HIS DIRECT TESTIMONY, MR. ORR CLAIMS THAT THE**
3 **COMMISSION “HAS RECOGNIZED” TWO APARTMENT COMPLEXES AS**
4 **“AN OPERATOR OF A MASTER METER SYSTEM.” PLEASE RESPOND.**

5 **A.** This statement mischaracterizes the Commission’s action at Docket Nos. A-2017-2616022
6 and A-2022-3032506. At each of those docket numbers, the owner/operator of an
7 apartment complex determined that it was subject to Act 127 and filed an Act 127
8 Registration with the Commission. The Commission’s only action in these proceedings
9 was to send each registrant a letter acknowledging receipt of the filing. This action hardly
10 constitutes a Commission determination that either apartment complex operates a “master
11 meter system” as defined in the Federal pipeline safety laws.

12 Moreover, Mr. Orr has not elaborated on the specific factual circumstances of those
13 two apartment complexes. He presented no evidence that the pipeline facilities on those
14 properties are limited to the apartment complex (as Westover’s Systems are located entirely
15 within its apartment complexes). Mr. Orr’s comments also ignore the fact that there are
16 hundreds -- if not thousands -- of apartment complexes within the Commonwealth that
17 have not registered with the Commission under Act 127 in the decade since the law was
18 enacted. The Commission has never affirmatively told apartment complex owners and
19 operators that they must register. In fact, the Frequently Asked Questions brochure
20 suggests that most apartment complex owner/operators do not have to register.

21
22 **Q. DOES MR. ORR DISCUSS THE FREQUENTLY ASKED QUESTIONS**
23 **BROCHURE?**

1 **A.** No. I cannot understand why he did not discuss it. Mr. Orr should have been aware of this
2 document even before this case was filed because that brochure provides Commission
3 guidance about complying with the Act. In any event, he should be aware of it now because
4 this document was referenced in several pleadings in this case, including Westover’s
5 Answer and New Matter, Westover’s Brief in Support of Petition for Interlocutory Review
6 and Westover’s Motion for Summary Judgment.

7
8 **Q.** **IN HIS DIRECT TESTIMONY, PAGES 21-64, MR. ORR OPINES THAT MOST**
9 **OF WESTOVER’S SYSTEMS ARE “MASTER METER SYSTEMS.” ARE HIS**
10 **CONCLUSIONS CONSISTENT WITH THE FREQUENTLY ASKED**
11 **QUESTIONS BROCHURE?**

12 **A.** No. That brochure states that a “pipeline operator” under Act 127 includes master meter
13 systems that provide service to property owned by third parties, but does not include master
14 meter systems serving their own property. Since all of Westover’s Systems are located
15 exclusively within Westover’s apartment complexes or commercial properties, and only
16 serve occupants of buildings on the properties operated by Westover, Westover Statement
17 No. 1 p. 6, Mr. Orr’s conclusions are inconsistent with that brochure. Since Mr. Orr does
18 not discuss this document, I have no idea why he decided to deviate from the Commission’s
19 long-standing guidance.

20
21 **Q.** **IS THE FREQUENTLY ASKED QUESTIONS BROCHURE BINDING ON THE**
22 **COMMISSION?**

1 A. I am advised by counsel that informal opinions expressed by Commission representatives,
2 and reports drafted by Commission bureaus, are only considered as aids to the public and
3 are not binding on the Commission. That does not mean, however, that the Frequently
4 Asked Questions brochure should be ignored. I&E should be required to explain why the
5 ALJ should not follow the guidance provided in that document. Additionally, Westover
6 should not be subjected to a civil penalty if the Commission decides in 2023 that the
7 information it has provided as an aid to the public since 2014 is incorrect.

8

9

INVESTIGATION OF WESTOVER BY I&E

10 **Q. ON PAGE 4 OF HIS DIRECT TESTIMONY, MR. ORR INDICATES THAT HE**
11 **WAS ASSIGNED TO I&E’S INVESTIGATION OF WESTOVER IN NOVEMBER**
12 **2020. PLEASE COMMENT.**

13 A. Although Mr. Orr references his supervisor several times in his testimony, he appears to
14 be the lead investigator in this case. This surprises me because he seems to be a junior
15 level Fixed Utility Valuation Engineer (he joined I&E in 2016).

16 Significantly, I&E claims that it began investigating Westover’s alleged “master
17 meter systems” shortly after the gas leak at Jamestown Village in May, 2018. Complaint
18 ¶ 30. Mr. Orr was assigned to the case in November 2020 and had a virtual meeting with
19 Westover personnel on or about December 2, 2020. At that meeting, “[a]fter some
20 discussion as to the description of Westover’s gas systems, Pipeline Safety informed
21 Westover that it operates master meter systems and is a pipeline operator.” I&E Statement
22 No. 1 p. 5. In other words, Mr. Orr had been on the case for only a month, and had only

1 spoken to Westover briefly, when he concluded that Westover operates a “master meter
2 system.”

3
4 **Q. ON PAGES 4-14 OF HIS DIRECT TESTIMONY, MR. ORR DISCUSSES I&E’S**
5 **INVESTIGATION OF WESTOVER. PLEASE RESPOND.**

6 **A.** His testimony is not entirely accurate. For example, on page 13, Mr. Orr says that the only
7 complex he did not personally visit was Jamestown Village, but on page 8, he says he met
8 with me and Peter Quercetti at 2501 Maryland Road, Willow Grove, PA. That is the
9 address of Jamestown Village, so his testimony on this point is inconsistent. More
10 importantly, I have never been to Jamestown Village, so I know this testimony is not
11 accurate. My colleague, Peter Quercetti, points out additional inconsistencies and errors
12 in Mr. Orr’s testimony.

13
14 **Q. YOU DISCUSSED I&E’S INVESTIGATION OF WESTOVER AT PAGES 13-23**
15 **OF YOUR DIRECT TESTIMONY. HAVE YOU ATTACHED ADDITIONAL**
16 **EXHIBITS TO THIS TESTIMONY DOCUMENTING I&E’S INVESTIGATION**
17 **AND WESTOVER’S COOPERATION WITH THAT INVESTIGATION?**

18 **A.** Yes. Attached as **Westover Exhibit AS-21** is an e-mail from I&E’s counsel to me, dated
19 June 4, 2021. This e-mail is referenced in I&E’s letter dated July 28, 2021.

20 By way of background, on June 2, 2021, I&E instructed Westover to develop an
21 O&M Manual by June 22, 2021. Since the June 2, 2021 letter stated that the focus of I&E’s
22 investigation was whether the pipeline facilities at Jamestown Village constitute a “master
23 meter system,” Westover engaged Entech to prepare an O&M Manual for Jamestown

1 Village. In the June 4, 2021 e-mail, however, I&E counsel told us (without any
2 explanation) that the O&M Manual to be developed by June 22, 2021 “should encompass
3 all jurisdictional master meter systems operated by Westover in any of the apartment
4 complexes that it manages in Pennsylvania.”

5 Attached as **Westover Exhibits AS-22 and AS-23** are e-mails that I discussed in
6 my Direct Testimony, p. 20. On December 17, 2020, I provided I&E with lists of all
7 Pennsylvania apartment complexes and commercial properties operated by Westover with
8 natural gas service.

9 For the record, I note that the e-mail chain in **Westover Exhibit AS-23** includes an
10 e-mail from Mr. Orr to me dated December 30, 2020, which states that Mr. Orr wanted to
11 schedule several inspections in January 2021, including an inspection concerning
12 Westover’s Distribution Integrity Management Plan (“DIMP”). I am advised by counsel
13 that PHMSA amended its regulations to exempt “master meter systems” from the DIMP
14 requirements effective March 12, 2021.

15
16 **Q CAN YOU SUMMARIZE ALL OF THE TESTIMONY AND EXHIBITS**
17 **REGARDING I&E’S INVESTIGATION, AND WESTOVER’S COOPERATION**
18 **WITH THAT INVESTIGATION?**

19 **A.** Yes. Based on my Direct Testimony and Exhibits, and Mr. Orr’s Direct Testimony and
20 Exhibits, I prepared the following timeline summarizing the events that transpired from the
21 start of I&E’s investigation until shortly after the Complaint was filed:

DATE	EVENT	SOURCE
May 21-23, 2018	A natural gas leak at Jamestown Village resulted in a service outage. I&E	Westover Statement No. 2 pp. 14-15 (citing Complaint

	personnel visited Jamestown Village and spoke with Westover personnel. I&E then shifted its focus to determining whether the pipeline facilities at Jamestown Village constitute a “master meter system.”	¶ 28); Westover Exhibits AS-7 and AS-9.
May 29, 2018	I&E personnel met with Westover personnel.	Westover Exhibit AS-9.
September 11, 2018	I&E personnel again inspected Jamestown Village.	Westover Exhibit AS-9.
November, 2020	Mr. Orr was assigned to investigate Westover.	I&E Statement No. 1 p. 4.
December 2, 2020	I&E performed a virtual inspection of Jamestown Village’s facilities and records. I&E concluded that Westover operates a “master meter system” and gave Westover two weeks to prepare an O&M Manual.	Westover Statement No. 2 p. 15; I&E Statement No. 1 p. 5; Westover Exhibits AS-5 and AS-9
December 17, 2020	Westover provided I&E with a list of all of its apartment complexes and commercial properties with gas service.	Westover Statement No. 2 p. 20; Westover Exhibits AS-22 and AS-23.
February 3, 2021	I&E sent Westover a noncompliance letter giving Westover until March 17, 2021 to develop an O&M Manual for Jamestown Village and a process to document all required records.	Westover Statement No. 2 p. 15; I&E Statement No. 1 p. 5; Westover Exhibit AS-5.
March 30, 2021	I&E sent Westover another noncompliance letter, giving Westover until April 29, 2021 to respond to the letter of February 3, 2021, and to provide dates for inspections of records and facilities.	I&E Statement No. 1, p. 6; Westover Exhibit AS-6.

June 2, 2021	I&E sent Westover a letter stating that the focus of the investigation was whether the pipeline facilities at Jamestown Village constitute a “master meter system.” Westover was directed to do the following within three weeks: develop an O&M Manual, develop a process to track all required documents, arrange for an inspection of facilities and records, and complete an Act 127 Registration.	I&E Statement No. 1 p. 6; Westover Exhibit AS-7.
June 4, 2021	I&E’s counsel sent Westover an e-mail requiring the O&M Manual to apply to “all jurisdictional master meter systems,” not just Jamestown Village.	Westover Exhibit AS-21.
June 28, 2021	Jamestown Village filed an Act 127 Registration.	I&E Statement No. 1 p. 7; Westover Exhibit AS-11
July 15, 2021	I&E inspected Westover’s records and scheduled a follow-up inspection for August 24, 2021.	Westover Statement No. 2 p. 17; Westover Exhibit AS-8.
July 28, 2021	I&E sent Westover a letter stating that the investigation “focuses on determining which apartment complexes owned or managed by Westover” are “master meter systems.” The following items were to be presented to I&E at the inspection on August 24, 2021: an O&M Manual for all Westover “master meter systems” in Pennsylvania, a map of all Westover “master meter systems” in Pennsylvania and an Operator Qualification Plan. In addition, the following items were to be submitted	Westover Exhibit AS-8.

	by August 9, 2021: a list of all Westover “master meter systems” in Pennsylvania, a list of all Westover emergency contacts, and an Act 127 Registration for all Westover “master meter systems” in Pennsylvania.	
July 30, 2021 through September 10, 2021	I&E inspected some of Westover’s apartment complexes (sometimes without the consent of Westover). ²	I&E Statement No. 1 pp. 13-14; Westover Exhibit AS-9 (Interrogatory Answers 25 and 27).
August 6, 2021	Westover filed an Act 127 Registration.	Westover Statement No. 2 p. 21; Westover Exhibit AS-14.
August 19, 2021	The Act 127 Registration for Jamestown Village was withdrawn, and the Commission cancelled this Registration on August 30, 2021.	Westover Statement No. 2 pp. 20-21; Westover Exhibits AS-12 and AS-13.
August 23, 2021	Westover requested additional time to develop an O&M Manual, prepare maps, and develop an operator qualification plan.	I&E Statement No. 1 pp. 7-8; I&E Exhibit 7.
August 24, 2021	I&E met with Westover and granted an extension to complete the O&M Manual. Another meeting was scheduled for September 21, 2021, but this meeting was cancelled and rescheduled for October 12, 2021.	I&E Statement No. 1 p. 8.
September 20, 2021	I&E personnel met with Westover and Oak Tree to discuss the draft O&M Manual.	Westover Exhibit AS-9; Westover Statement No. 2 p. 18.
September 27, 2021	Westover filed a corrected Act 127 Registration.	Westover Exhibit AS-15.
October 2021	Westover opened a pipeline operator account with	Westover Statement No. 2 p. 20.

² Westover’s apartment complexes are private property. The Pennsylvania and United States Constitutions limit a law enforcement officer’s authority to enter private property in the absence of the owner’s consent, probable cause, or a search warrant.

	PHMSA as demanded by I&E.	
October 4, 2021	I&E personnel visited Westover headquarters to conduct an inspection.	Westover Exhibit AS-9.
October 12, 2021	I&E personnel visited Westover headquarters to conduct an inspection.	Westover Exhibit AS-9.
October 13, 2021	I&E met with Westover to discuss operations plans and Act 127 Registration.	Westover Exhibit AS-9
November 3, 2021	Westover advised I&E that it believes its Systems are not “master meter systems.”	I&E Statement No. 1 p. 9.
November 4, 2021	Westover’s counsel sent I&E’s counsel a letter explaining why Westover believes its Systems are not “master meter systems.”	I&E Statement No. 1 p. 9; Westover Exhibit AS-17.
November 1, 2021	I&E sent Westover a letter initiating a new informal investigation “concerning the billing practices for natural gas service at Westover properties located in Pennsylvania.”	Westover Statement No. 2 p. 22; Westover Exhibit AS-24.
November 22, 2021	I&E’s counsel sent Westover’s counsel a letter explaining why I&E believes Westover’s Systems are “master meter systems.”	I&E Statement No. 1 p. 9; Westover Exhibit AS-18.
December 13, 2021	Westover filed its Original Petition for Declaratory Order. An Amended Petition is filed on May 16, 2022.	I&E Statement No. 1 p. 9.
January 3, 2022	I&E filed its Formal Complaint.	I&E Statement No. 1 p. 9.
February 2, 2022	Westover filed an annual Act 127 Registration and paid the annual assessment (under protest, based on this proceeding)	Westover Exhibit AS-16.

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Q. WHY IS THIS TIMELINE IMPORTANT?

A. Westover does not believe the Commission has jurisdiction over the Systems. If the Commission does not have jurisdiction, Westover has no obligation to cooperate with I&E’s investigation.

Nevertheless, Westover did not refuse to meet with I&E, nor did Westover exclude I&E personnel from its properties. To the contrary, Westover met with I&E many times and even took some of the actions demanded by I&E.

Based on the extensive timeline set forth above, the Commission should reject I&E’s claim that Westover committed “multiple counts” of violating 58 P.S. § 801.501(a)(1) and (b) by prohibiting I&E from completing inspections of its records, procedures and facilities. Complaint ¶ 45i. In addition, if the Commission finds that any of Westover’s Systems are subject to Commission jurisdiction, the Commission should consider this extensive timeline and find that Westover cooperated in I&E’s investigation – while still exercising Westover’s constitutional right to dispute I&E’s legal position. As a result, the Commission should not impose a civil penalty on Westover.

Q. DO YOU HAVE ANYTHING TO ADD REGARDING I&E’S INVESTIGATION?

A. In my opinion, I&E went beyond encouraging compliance with the law. When I&E personnel could not clearly and adequately explain why any particular Westover System is a “master meter system” (the confusion about Jamestown Village is one example), I&E resorted to very aggressive tactics to compel Westover to accept I&E’s interpretation of the law. The I&E letters of February 3, 2021, March 30, 2021, June 2, 2021, and July 28, 2021 all threatened Westover with enforcement action if Westover did not quickly comply

1 with I&E's demands. Scott Orr orally threatened Westover with enforcement action if
2 Westover did not open a pipeline operator account with PHMSA. Westover Statement No.
3 1 p. 20. I&E established unreasonably short time frames for completing tasks (for example,
4 the December 2, 2020 letter demanded that Westover prepare an O&M Manual in two
5 weeks). I&E staff required Westover personnel and contractors to disassemble and repeat
6 repair work performed at Gladstone Towers on January 19, 2023, and required Westover
7 to have an Operator Qualified individual re-light the pilot lights on gas stoves at Gladstone
8 Towers on January 19, 2023. Westover Statement No. 1 pp. 54-55.

9 Finally, when Westover's counsel called I&E's counsel to explain why Westover
10 disagreed with I&E's interpretation of Act 127, I&E retaliated by instituting another
11 informal investigation of Westover. Westover Statement No. 2 p. 22. This second
12 investigation concerned Westover's billing practices for natural gas service at Westover
13 properties. **Westover Exhibit AS-24.** Westover fully cooperated with this second
14 investigation and demonstrated that Westover was in compliance with all applicable billing
15 requirements. I&E sent data requests to Westover as part of this second investigation, but
16 Mr. Orr used those answers to support his testimony in this proceeding. I&E Exhibit 11.
17 I&E's overly-aggressive tactics should be taken into consideration when the Commission
18 decides whether to impose a civil penalty in this case.

19
20 **THE COMPLAINT AGAINST WESTOVER**

21 **Q. IN THE COMPLAINT, DID I&E ALLEGE THAT WESTOVER VIOLATED**
22 **STATE LAW?**

1 A. Yes. Paragraph 45a. alleged that Westover violated 58 P.S. § 801.503(d) by not filing an
2 Act 127 Registration by March 15, 2012 and by March 31 of every year from 2013 through
3 2021. However, I am advised by counsel that the ALJ ruled that 66 Pa. C.S. § 3314(a)
4 prohibits prosecutions for events occurring more than three years before the Complaint was
5 filed (*i.e.*, events before January 3, 2019).

6 Paragraph 45b. alleged that Westover violated 58 P.S. § 801.503(b) by failing to
7 pay an appropriate assessment to the Commission for the fiscal years 2013-2014 through
8 2020-2021. However, I am advised by counsel that the ALJ ruled that 66 Pa. C.S. § 3314(a)
9 prohibits prosecutions for events occurring more than three years before the Complaint was
10 filed (*i.e.*, events before January 3, 2019).

11 Paragraph 45i. alleged that Westover violated 58 P.S. § 801.501(a)(1) and (b) by
12 prohibiting I&E from completing inspections of Westover’s records, procedures and
13 facilities. As discussed above, based on the extensive timeline of I&E’s investigation and
14 Westover’s cooperation with that investigation, this allegation should be rejected.

15
16 **Q. IN THE COMPLAINT, DID I&E ALLEGE THAT WESTOVER VIOLATED THE**
17 **FEDERAL PIPELINE SAFETY REGULATIONS?**

18 A. Yes. Paragraph 45 of the Complaint describes Westover’s alleged violations of Federal
19 pipeline safety laws as follows (emphasis added):

20 c. Respondent failed to demonstrate compliance with Part 192 of the
21 Federal pipeline safety regulations in that it operates segments of pipelines
22 *with only partially completed procedures applicable to some, but not all,*
23 *regulated pipeline facilities, and does not maintain any records necessary*
24 *to show the implementation of procedures established in the regulations.*

25 This is a violation of 49 CFR § 192.603(a)(b). (multiple counts)
26
27

1 d. Respondent failed to demonstrate compliance with Part 192 of the
2 Federal pipeline safety regulations in that it operates pipelines *without a*
3 *completed and comprehensive procedural manual for operations,*
4 *maintenance and emergencies.*

5
6 This is a violation of 49 CFR § 192.605(a)-(e). (multiple counts)
7

8 e. Respondent failed to demonstrate compliance with Part 192 of the
9 Federal pipeline safety regulations in that it has *not completed emergency*
10 *plans to minimize the hazard resulting from a gas pipeline emergency.*

11
12 This is a violation of 49 CFR § 192.615(a)-(c). (multiple counts)
13

14 f. Respondent failed to demonstrate compliance with Part 192 of the
15 Federal pipeline safety regulations in that it *failed to produce records*
16 *illustrating that the gas in its distribution lines contains the proper*
17 *concentration of odorant.*

18
19 This is a violation of 49 CFR § 192.625(f)(1)-(2). (multiple counts)
20

21 g. Respondent failed to demonstrate compliance with Part 192 of the
22 Federal pipeline safety regulations in that it does *not maintain any records*
23 *related to the requisite qualification program showing that individuals are*
24 *qualified to perform covered tasks.*

25
26 This is a violation of 49 CFR §§ 192.805(a)-(i) and 192.809(a)-(e).
27 (multiple counts)
28

29 h. Respondent failed to demonstrate compliance with Part 192 of the
30 Federal pipeline safety regulations in that it does *not maintain any records*
31 *related to the requisite qualification program showing that individuals are*
32 *qualified to perform covered tasks.*

33
34 This is a violation of 49 CFR § 192.807(a)-(b). (multiple counts).
35

36 **Q. BASED ON THE VIOLATIONS OF STATE AND FEDERAL LAW ALLEGED IN**
37 **THE COMPLAINT, PLEASE COMMENT ON MR. ORR'S DIRECT**
38 **TESTIMONY.**

39 **A.** I am not a lawyer, but I think Mr. Orr was asked the wrong questions, and, as a result, gave
40 irrelevant answers. In his testimony regarding the gas configurations at Westover's

1 apartment complexes, I&E Statement No. 1 pp. 21-64, Mr. Orr was repeatedly asked
2 whether he noted any “safety issues and/or concerns” at the apartment complexes. Just
3 because Mr. Orr considers something a “safety issue and/or concern” does not establish
4 that Westover violated any of the Federal pipeline safety regulations that were cited in the
5 Complaint.

6 Similarly, Mr. Orr was repeatedly asked whether the Entech reports included any
7 “recommendations or safety concerns.” His answers are irrelevant for the same reason.
8 The Entech reports included “suggested action items.” I&E Exhibit 12 pp. 385, 391, 401,
9 410 and 438. Just because an Entech report suggested a particular action item does not
10 establish that Westover violated any of the Federal pipeline safety regulations that were
11 cited in the Complaint.

12
13 **Q. ON PAGES 25 AND 67 OF HIS TESTIMONY, MR. ORR STATES THAT THE**
14 **FEDERAL PIPELINE SAFETY REGULATIONS ESTABLISH THE “MINIMUM**
15 **REQUIREMENTS” FOR SAFELY OPERATING A PIPELINE SYSTEM.**
16 **PLEASE RESPOND.**

17 a. I am advised by counsel that Mr. Orr is applying the wrong regulation to Westover; he is
18 referencing 52 Pa. Code § 59.33,³ which applies to public utilities, but Westover is not a
19 public utility. In this case, I&E alleges that the Commission has authority to regulate
20 Westover pursuant to Act 127, not 52 Pa. Code § 59.33.

³ 52 Pa. Code § 59.33(b) provides: “The minimum safety standards for all natural gas and hazardous liquid public utilities in this Commonwealth shall be those issued under the pipeline safety laws as found in 49 U.S.C.A. §§ 60101-60503 and as implemented at 49 CFR Parts 191-193, 195 and 199, including all subsequent amendments thereto.”

1 Mr. Orr may believe that the Federal pipeline safety regulations are the “minimum
2 standards” for operating a pipeline safely, but those regulations establish the only standards
3 with which a pipeline operator must comply. Westover cannot be penalized for failing to
4 comply with some other, undefined standard. For much of Mr. Orr’s testimony, I cannot
5 tell whether Mr. Orr is alleging that Westover violated a Federal pipeline safety regulation
6 or some other, unenforceable, standard.

7
8 **Q. DO YOU BELIEVE THAT MR. ORR ATTEMPTS TO RAISE NEW ISSUES IN**
9 **HIS TESTIMONY THAT WERE NOT RAISED IN THE COMPLAINT?**

10 **A.** Absolutely. Mr. Orr tries to allege that Westover has violated many Federal pipeline safety
11 regulations that were not specifically cited in the Complaint. Several examples of this are
12 found at pages 34, 36, 42, 46 and 56 of Mr. Orr’s Direct Testimony, where he alleges that
13 Westover has not provided evidence that it is in compliance with 49 CFR §§ 192.353,
14 192.355, 192.357, 192.359. In its Complaint, I&E did not claim that Westover was in
15 violation of those sections of the Federal pipeline safety regulations.

16 Another example of Mr. Orr’s attempt to raise new issues is found at page 66 of his
17 Direct Testimony, where Mr. Orr makes the following sweeping allegation (emphasis
18 added):

19 To the best of my knowledge, Westover is not in compliance with *any*
20 *section* of 49 CFR § 191 or 49 CFR § 192 which apply to master meter
21 systems because they have failed to demonstrate compliance. Specifically,
22 Westover has presented no emergency plans, records, documents, maps,
23 pressure tests, procedures, or any information that are required to be
24 compliant with the applicable sections of 49 CFR § 191 and 49 CFR § 192.

25 I am advised by counsel that there are several problems with Mr. Orr’s testimony.
26 First, I&E could have amended its Complaint to allege that Westover is in violation of

1 additional Federal pipeline safety regulations, but did not do so. It would violate
2 Westover’s due process rights if Mr. Orr was allowed to expand the scope of this
3 proceeding, through his Direct Testimony, from an allegation that Westover violated a
4 handful of discrete regulations to an allegation that Westover violated virtually every
5 applicable section of the Federal pipeline safety regulations.

6 Second, I am advised by counsel that I&E has the burden of proving, by a
7 preponderance of the evidence, that Westover violated the Federal pipeline safety
8 regulations identified in the Complaint. Mr. Orr is attempting to shift the burden to
9 Westover to demonstrate that it complied with the Federal pipeline safety regulations.

10 Third, Mr. Orr testified “to the best of his knowledge,” but does not provide any
11 foundation for his testimony. Why would Mr. Orr know whether Westover is complying
12 with the regulations? I note, in this regard, that the Complaint, at ¶ 45f, alleges that
13 Westover did not comply with 49 CFR § 192.625(f)(1)-(2). I am advised by counsel that
14 49 CFR § 192.625(f)(1) and (2) provide as follows:

- 15 (f) To assure the proper concentration of odorant in accordance with
16 this section, each operator must conduct periodic sampling of combustible
17 gases using an instrument capable of determining the percentage of gas in
18 air at which the odor becomes readily detectable. Operators of master meter
19 systems may comply with this requirement by –
20 (1) Receiving written verification from their gas source that the
21 gas has the proper concentration of odorant; and
22 (2) Conducting periodic “sniff” tests at the extremities of the
23 system to confirm that the gas contains odorant.

24 Attached as **Westover Exhibit AS-25** are letters Westover requested and received from
25 the NGDCs that supply gas to all of the Systems involved in this case. These letters provide
26 written verification from our gas sources that the gas they provide has the proper
27 concentration of odorant. Additionally, our apartment complexes are busy places, with
28 people coming and going all the time. If anyone smells gas at any time, they let us know.

1 “Sniff tests” are being conducted regularly by Westover personnel and by building
2 occupants.

3
4 **Q. DOES MR. ORR’S TESTIMONY DEMONSTRATE THAT WESTOVER**
5 **VIOLATED THE FEDERAL PIPELINE SAFETY REGULATIONS IDENTIFIED**
6 **IN THE COMPLAINT?**

7 **A.** No. Most of Mr. Orr’s testimony does not appear to have anything to do with the specific
8 regulations cited in the Complaint. For example, I see nothing at all in his testimony that
9 specifically addresses the allegation that Westover failed to produce records demonstrating
10 that the gas in its distribution lines contains the proper concentration of odorant, in violation
11 of 49 CFR § 192.625(f)(1)-(2).

12 In addition, Mr. Orr frequently attempts to draw conclusions that are not supported
13 by the facts in his testimony. For example, at page 53 of his testimony, Mr. Orr discusses
14 a gas pipe to a generator outside the apartment building at Norriton East (emphasis added):

15 [I] observed the Westover pipeline, which provided gas service to a
16 generator, was on the ground in direct contact with soil and showing signs
17 of corrosion. The pipeline was not protected from damage, such as from
18 lawn mowers or other sources of damage. *In short, Westover has failed to*
19 *show any records or procedures which comply with the applicable*
20 *sections of Part 191 and Part 192 of the federal regulations.*

21 Mr. Orr’s conclusion has nothing to do with the facts he cites.

22 Similarly, at page 61 of his testimony, Mr. Orr states that, at the Valley Stream
23 Apartments (emphasis added):

24 [T]he regulators at several of the buildings were close to the soil, which
25 could lead to the vents being blocked and preventing the release of gas in
26 the event of an over pressurization. If the vents are blocked and the gas is
27 not able to be released, the gas might end up downstream in an apartment
28 and could possibly cause an explosion. *In short, Westover has failed to*

1 *show any records or procedures which comply with the applicable sections*
2 *of Part 191 and Part 192 of the federal regulations.*

3 On page 64, Mr. Orr states that Westover advised I&E in discovery that Westover
4 cleaned up meters and also cleaned and painted gas lines. He claims:

5 This statement raises safety concerns and frankly raises more questions than
6 answers. Specifically, I am not sure how Westover cleaned the gas lines or
7 what gas lines they are referring to. Moreover, it is unknown whether UGI
8 was aware of these activities and whether Westover kept records of this task
9 and who completed the task.

10 If I&E had questions regarding the information Westover provided in discovery, it should
11 have served follow-up discovery to obtain answers. It did not. It is not enough for I&E to
12 say that it still has questions and to claim that those outstanding questions demonstrate that
13 Westover violated the Federal pipeline safety regulations.

14 In addition, Mr. Orr states:

15 The PECO meters and vents and the Westover pipeline are located directly
16 in front of operable windows. This poses a severe safety risk in the event
17 of an over-pressurization event. Specifically, the location of the windows
18 in relation to the gas facilities allows for the possibility of natural gas which
19 is vented to enter the structure through the window when open. The buildup
20 of gas inside the structure could cause the grave possibility of an explosion
21 if the gas is ignited by a source of ignition, i.e., the boiler or hot water heater.

22 I&E Statement No. 1 pp. 22-23. *See also* page 46 (discussing a PECO-owned meter and
23 Westover-owned manifold located directly in front of an apartment window). Obviously,
24 Westover cannot be held responsible for “safety issues and/or concerns” relating to
25 PECO’s facilities.

26 Mr. Orr further states that Pipeline Safety personally observed two situations where
27 leaks were found on the gas facilities at a Westover System: Woodland Plaza and
28 Gladstone Towers. The leaks at Woodland Plaza were leaks on UGI facilities. Westover

1 Statement No. 1 pp. 52-53. Again, Westover cannot be held responsible for an NGDC's
2 failure (if any) to comply with Federal pipeline safety regulations.

3 Finally, I find much of Mr. Orr's testimony unduly speculative. For example, on
4 page 23, Mr. Orr claims that Westover advised I&E in discovery that Westover agreed with
5 PECO to make some boiler windows inoperable and to raise several pipelines so they do
6 not sit in the dirt. Mr. Orr states: "This information provided by Westover raised several
7 red flags of additional safety concerns at this apartment complex as I&E has no information
8 or records which demonstrate that qualified individuals will or were going to complete the
9 work Westover agreed to complete." The work described has not been completed, so it is
10 speculative to claim that safety is being compromised because work is being done by
11 unqualified persons. Moreover, it is unclear what work will be done in the future. If
12 Westover opts to make windows inoperable at its apartment complex, I&E has failed to
13 demonstrate that the Federal pipeline safety regulations establish any qualifications for the
14 persons completing the work.

15
16 **THE GAS AND HAZARDOUS LIQUIDS PIPELINE ACT**

17 **Q. ON PAGE 66 OF HIS TESTIMONY, MR. ORR ASSERTS THAT, AS A MASTER**
18 **METER OPERATOR, WESTOVER IS CONSIDERED A "PIPELINE**
19 **OPERATOR" UNDER ACT 127. PLEASE RESPOND.**

20 **A.** I disagree with Mr. Orr for the reasons discussed at pages 6-7 of my Direct Testimony.
21 When the General Assembly enacted Act 127, it did not intend to apply the Federal pipeline
22 safety laws to landlords that purchase gas from a Commission-regulated NGDC and resell
23 it to occupants of rental units on the landlord's property. In other words, even if one or

1 more of Westover’s Systems are “master meter systems,” there are other legal issues that
2 need to be addressed before any conclusion can be drawn about whether Westover is a
3 “pipeline operator” as defined in Act 127.
4

5 **I&E’S REQUEST FOR CIVIL PENALTIES**

6 **Q. IN YOUR DIRECT TESTIMONY, YOU DISCUSSED THE TEN FACTORS AND**
7 **STANDARDS THAT THE COMMISSION CONSIDERS IN DECIDING**
8 **WHETHER TO IMPOSE A CIVIL PENALTY AND, IF SO, HOW MUCH OF A**
9 **CIVIL PENALTY SHOULD BE IMPOSED. DOES MR. ORR DISCUSS THESE**
10 **STANDARDS?**

11 **A.** Not directly. However, he indirectly discusses a few of the factors and standards in his
12 testimony.

13 Mr. Orr claims that Westover’s conduct was of a serious nature because there is a
14 substantial risk to the building occupants at Westover’s apartment complexes. I&E Direct
15 Testimony p. 66. As I stated at page 26 of my Direct Testimony, Westover is only charged
16 with administrative violations (failure to document procedures and maintain records).
17 These alleged violations do not raise safety concerns.

18 I&E tries to argue that these administrative violations raise “major safety concerns”
19 because the Pipeline Safety Division is unable to verify that Westover performed work
20 correctly and correctly operated its pipelines. I&E Direct Testimony pp. 34, 37 and 56.
21 This rationale for finding that Westover’s conduct was of a serious nature is not
22 compelling. Much more compelling is Westover’s excellent safety record over an extended
23 period of time (Westover has not had a single incident in which natural gas caused injury

1 to persons or property during decades of owning multiple apartment complexes and
2 commercial properties in the Commonwealth), Westover Statement No. 1 p. 3, together
3 with Westover’s demonstrated ability to quickly and effectively respond to gas leaks (as it
4 did at Gladstone Towers and Hillcrest, Westover Statement No. 1 pp. 4-5 and 53-55).

5 In addition, as Mr. Quercetti notes in his Rebuttal Testimony, if Mr. Orr believed
6 that the conditions he saw during the inspections of the facilities presented serious safety
7 concerns, he should have brought those conditions to the attention of Westover (and, in
8 some cases, the pertinent NGDC) expeditiously, so they could address the issue and reduce
9 the risk to building occupants. He did not do so, which undermines the claim that the
10 conditions presented “major safety concerns.”

11 Mr. Orr also claims that the consequences of Westover’s conduct were serious
12 because that conduct “elevates concerns for both the probability of an incident occurring
13 and the potential consequences associated with an incident.” I&E Statement No. 1. Again,
14 this reasoning has little to do with the administrative violations with which Westover is
15 charged in this matter. Westover’s alleged administrative violations have not caused
16 property damage or personal injury. They do not warrant a civil penalty.

17 With regard to whether Westover acted in bad faith, actively concealed violations,
18 or attempted to interfere with the Commission’s investigation, the extensive history of
19 I&E’s investigation, discussed above, demonstrates that Westover did not act in bad faith.
20 In many respects, Westover cooperated with I&E’s investigation -- while simultaneously
21 exercising Westover’s constitutional right to dispute I&E’s interpretation of the law.
22 Westover had a reasonable basis for being uncertain as to whether its Systems are subject
23 to Commission regulation pursuant to Act 127. Moreover, Mr. Orr presents absolutely no

1 evidence that Westover actively concealed violations or unlawfully interfered with I&E's
2 investigation.

3 Finally, I am advised by counsel that the Commission may consider "other relevant
4 factors" when deciding what penalty to impose in a particular case. In my opinion, the
5 Commission should consider I&E's overly-aggressive tactics (discussed above) when
6 considering whether to impose civil penalties. In addition, the Commission should
7 consider the close relationship between Mr. Orr and the former Commission employees
8 who consult as Oak Tree – a relationship that I&E staff did not disclose to Westover – in
9 deciding the appropriate civil penalty in this case.

10
11 **REQUEST FOR RELIEF**

12 **Q. AT PAGES 32-33 OF YOUR DIRECT TESTIMONY, YOU DESCRIBE THE**
13 **RELIEF THAT WESTOVER IS REQUESTING FROM THE COMMISSION.**
14 **DOES MR. ORR'S TESTIMONY CHANGE YOUR REQUEST?**

15 **A.** No. Significantly, Mr. Orr acknowledges that Westover filed the Petition for Declaratory
16 Order, but does not otherwise address either the original Petition or the Amended Petition.
17 For example, he does not discuss the Bryn Mawr Medical Building listed on Westover's
18 Act 127 Registration. Westover continues to ask the Commission to declare that
19 Westover's Act 127 Registration is null and void because none of the Systems listed on
20 that document – including the Bryn Mawr Medical Building – are "master meter systems."

21 Mr. Orr concedes that the Systems at Willow Run and at the South Valley
22 Townhomes are not "master meter systems." Consequently, there is no question that the
23 Complaint should be dismissed, and that Westover's Petition for Declaratory Order should

1 be granted, with respect to those Systems. In addition, for the reasons set forth in
2 Westover's Direct and Rebuttal Testimony, the Complaint should be dismissed as to all
3 other Westover Systems, and the Petition for Declaratory Order should be granted with
4 respect to all other Westover Systems.

5

6

CONCLUSION

7

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

8

A. Yes. However, I reserve the right to supplement my testimony as additional issues or facts

9

arise during the course of this proceeding. Thank you.

WESTOVER EXHIBIT AS-19



March 27, 2023

Via Electronic Submission Only

PAPUC
400 North Street
Harrisburg PA 17120

Regarding: Docket A-2021-3028141

To whom it may concern.

The attached transmission and filing fee are paid under protest based on the on-going proceedings at Docket Nos. P- 2021-3030002 and C-2022-3030251, in which we contend that we do not need to register pursuant to Act 127.

Sincerely,

Alexander Stefanelli
CFO

CC: Zambito, David DZambito@cozen.com
Nase, Jonathan JNase@cozen.com
Peter Quercetti





Act 127
Pennsylvania Pipeline Operator Annual Registration Form

Please submit completed form by March 31

Registration for Previous Calendar Year Ending: December 31, 2022

Docket Number: A-2021-3028141

If you need help getting your docket number,

- Go to www.puc.pa.gov > Filing & Resources > Issues, Laws & Regulations > Act 127 (Pipeline Act).
- On the Act 127 page you will see a link on the lower section of the page under Pipeline Operators Registry.
- Click on the link to "View Current List of Registered Pipeline Operators."
- Click on the utility code next to your name; find the Docket Number (A-2012-xxxxxx) under the Docketed Cases.

1. Registrant (Full name of pipeline operator): The Westover Companies

Comments: If applicable, explain any changes to your company name or legal status (acquisition, merger, etc.) in the past calendar year.

2. Types of Pipelines and/or Facilities.

Please note that natural gas public utilities are not required to file this form.

Pipelines and/or facilities covered by this form are associated with the following types of facilities and transport the following types of commodities: (select all that apply)

Gas Distribution

Natural Gas Propane Gas

Gas Transmission

Natural Gas
Propane Gas
Other Gas Define:

Gas Gathering

Hazardous Liquid
Other Define:

3. Main Mailing Address:

Provide the address to which the Commission will serve all correspondence relating to this registration.

Street Address/P. O. Box: 550 AMERICAN AVE., SUITE 1

City, State, Zip Code: KING OF PRUSSIA, PA 19406

4. Physical Address:

Provide the address of your primary Pennsylvania facility. This address is needed by the Commission to perform inspections and onsite visits.

Do not provide a post office box number.

Street Address: see attached Exhibit D

City, State, Zip Code:

5. US DOT Operator ID Number:

Provide the number assigned to you by the United States Department of Transportation, Pipeline Hazardous and Materials Safety Administration (PHMSA).

40293

6. PA L&I Propane Registration Number:

Provide your propane registration number with the Pennsylvania Department of Labor and Industry (if applicable). If you do not have a number, please enter "N/A".

7.	Regulatory Contact Information: <i>Complete in full with contact information of the person in your company the Commission can contact for questions and other matters pertaining to your registration and operations.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
8.	Assessment Contact Information: <i>Complete in full with contact information of the person in your company who is responsible for receiving the Commission's assessment (billing) invoices and paying the assessment under Act 127.</i>
	Name: ALEXANDER STEFANELLI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: cfo@westovercompanies.com
	Telephone Number: (610) 763-2864
9.	Federal EIN Number (if applicable):
10.	Pipeline Emergency (PEMA) Contact Information: <i>Complete in full with contact information of the person in your company who the Commission can call in an emergency situation. This information is critical to the Commission's interactions with the Pennsylvania Emergency Management Authority (PEMA).</i>
	Name: PETER QUERCETTI
	Street Address: 550 AMERICAN AVE., SUITE 1
	City, State, Zip Code: KING OF PRUSSIA, PA 19406
	Email Address: pquercetti@westovercompanies.com
	Telephone Number: (302) 388-3569
11.	Attorney (if applicable): <i>Complete this section only if an attorney is filing this registration form on your company's behalf.</i>
	Name:
	Street Address:
	City, State, Zip Code:
	Email Address:
	Telephone Number:
12.	Operational Information:
Comments: Report any newly installed pipeline, and explain any additions, deletions or variations since your previous year's registration.	

- Complete Attachments "A" and "B". For each Pennsylvania gas or hazardous liquids pipeline, provide the in-state mileage in operation as of December 31 of the prior year, by class and by county. Mileage should be reported for each individual pipe. Multiple pipelines in one trench are considered individual pipes for reporting purposes. If you have no miles to report on these attachments, check the appropriate block at the top of the form(s).
- Complete Attachment "C" by providing the country of manufacture and mileage data for all tubular steel products installed in the prior calendar year in Pennsylvania for the exploration, gathering or transmission of natural gas or hazardous liquids. If you have no data to report on this attachment, check the appropriate block at the top of the form.

13. Filing Fee:

The filing fee for this Annual Registration Form is \$250, payable to the "Commonwealth of Pennsylvania."

The filing fee can either be mailed or electronically paid when eFiling your form with the Commission's eFiling system.

NOTE: If you are a Propane Distributor registered with the PA L&I or a Borough, you are exempt from paying this filing fee.

Fee Exemptions (please indicate if either exemption applies):

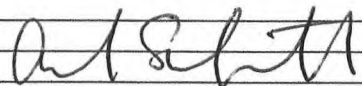
Propane Distributor registered with PA L&I

Borough

14. Verification:

The person responsible (corporate officer or attorney) for filing your Annual Registration Form must affix his or her signature and verify that all information provided on the form is true to the best of his or her knowledge, information and belief. NOTE: Registration Forms that are not verified will not be accepted for filing.

I hereby state that the information in this application is true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Name: Alexander Stefanelli	Signature: 
Title: CFO	Date: 3/27/2023

15. Registration:

eFiling:

Registration Forms may be eFiled with the PUC. If eFiling your renewal form, go to <http://www.puc.pa.gov> and click on the eFiling link on the bottom of the page under Issues, News & Reports. Please choose "Existing Case" as the type of filing and enter your docket number where indicated.

By mail:

Send original, signed copy of registration form along with attachments and filing fee (if applicable) to:

Secretary, PA Public Utility Commission
Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120

Reminders:

- It is the responsibility of registrants to keep the Commission notified of any changes to your contact information by providing notice, in writing, to the Commission's Secretary at the above address.
- Incomplete registration forms or those missing any attachments are unacceptable for filing and will be delayed for processing until the required information is sent to the Commission's Secretary's Bureau. If you require assistance or have questions when completing this form, call 717-772-7777.
- Registrations are public records. Accordingly, DO NOT place social security numbers, credit card numbers, bank account numbers or other confidential information on the registration form.

*****PLEASE KEEP A COPY OF YOUR COMPLETED REGISTRATION FORM FOR YOUR RECORDS*****

Additional Comments: Use this section to add any additional information:

Attachment A

Hazardous Liquids Lines
Calendar Year Ending: December 31, 2022
Pipeline Operator: The Westover Companies

Please check here if you have no reportable Hazardous Liquids Lines

Please report mileage to the nearest 1/10th of a mile.

HCA = High Consequence Area

County	Intrastate		Interstate		Total
	Non-HCA	HCA	Non-HCA	HCA	
Adams					0.0
Allegheny					0.0
Armstrong					0.0
Beaver					0.0
Bedford					0.0
Berks					0.0
Blair					0.0
Bradford					0.0
Bucks					0.0
Butler					0.0
Cambria					0.0
Cameron					0.0
Carbon					0.0
Centre					0.0
Chester					0.0
Clarion					0.0
Clearfield					0.0
Clinton					0.0
Columbia					0.0
Crawford					0.0
Cumberland					0.0
Dauphin					0.0
Delaware					0.0
Elk					0.0
Erie					0.0
Fayette					0.0
Forest					0.0
Franklin					0.0
Fulton					0.0
Greene					0.0
Huntingdon					0.0
Indiana					0.0
Jefferson					0.0
Juniata					0.0
Lackawanna					0.0
Lancaster					0.0
Lawrence					0.0
Lebanon					0.0
Lehigh					0.0
Luzerne					0.0
Lycoming					0.0
McKean					0.0
Mercer					0.0
Mifflin					0.0
Monroe					0.0
Montgomery					0.0

Montour					0.0
Northampton					0.0
Northumberland					0.0
Perry					0.0
Philadelphia					0.0
Pike					0.0
Potter					0.0
Schuylkill					0.0
Snyder					0.0
Somerset					0.0
Sullivan					0.0
Susquehanna					0.0
Tioga					0.0
Union					0.0
Venango					0.0
Warren					0.0
Washington					0.0
Wayne					0.0
Westmoreland					0.0
Wyoming					0.0
York					0.0
Total	0.0	0.0	0.0	0.0	0.0

Attachment B

Mileage

Calendar Year Ending: December 31, 2022

Pipeline Operator: The Westover Companies

Please check here if you have no miles to report

Act 127 mileage reporting for this form should not include any pipelines subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission.

Please report mileage to the nearest 1/10th of a mile.

County	Number of Farm Taps	Class 1 Gathering (Conventional)	Class 1 Gathering (Unconventional)	Class 1 Transmission & Distribution	Gathering, Transmission & Distribution			
					Class 2 Gathering Transmission & Distribution	Class 3 Gathering Transmission & Distribution	Class 4 Gathering Transmission & Distribution	Total Class 1 T&D + Class 2+3+4 G,T&D
Adams								0.0
Allegheny								0.0
Armstrong								0.0
Beaver								0.0
Bedford								0.0
Berks						0.4		0.4
Blair								0.0
Bradford								0.0
Bucks						0.4		0.4
Butler								0.0
Cambria								0.0
Cameron								0.0
Carbon								0.0
Centre								0.0
Chester						0.4		0.4
Clarion								0.0
Clearfield								0.0
Clinton								0.0
Columbia								0.0
Crawford								0.0
Cumberland						0.4		0.4
Dauphin								0.0
Delaware						0.9		0.9
Elk								0.0
Erie								0.0
Fayette								0.0
Forest								0.0
Franklin								0.0
Fulton								0.0
Greene								0.0
Huntingdon								0.0
Indiana								0.0
Jefferson								0.0
Juniata								0.0
Lackawanna								0.0
Lancaster								0.0
Lawrence								0.0
Lebanon								0.0
Lehigh								0.0
Luzerne								0.0
Lycoming								0.0

McKean								0.0
Mercer								0.0
Mifflin								0.0
Monroe								0.0
Montgomery						1.1		1.1
Montour								0.0
Northampton								0.0
Northumberland								0.0
Perry								0.0
Philadelphia								0.0
Pike								0.0
Potter								0.0
Schuylkill								0.0
Snyder								0.0
Somerset								0.0
Sullivan								0.0
Susquehanna								0.0
Tioga								0.0
Union								0.0
Venango								0.0
Warren								0.0
Washington								0.0
Wayne								0.0
Westmoreland								0.0
Wyoming								0.0
York								0.0
Total	0.0	0.0	0.0	0.0	0.0	3.6	0.0	3.6

Primary	Heating Type	PUC	Address	City State Zip	County	Units	Zip
<u>Carlisle Park</u>	Gas	Y	625 Third Street	Carlisle, PA 17013	Cumberland County	208	17013
<u>Gladstone Towers</u>	Gas	Y	223 Scottdale Road	Lansdowne, PA 19050	Delaware County	121	19050
<u>Hillcrest</u>	Gas	Y	785 W. Providence Road	Lansdowne, PA 19050	Delaware County	84	19050
<u>Lansdowne Towers</u>	Gas	Y	772 E. Providence Road	Aldan, PA 19018	Delaware County	231	19018
<u>Main Line Berwyn</u>	Gas	Y	750 Old Lancaster Road	Berwyn, PA 19312	Chester Count	180	19312
<u>Mill Creek</u>	Gas	Y	265 E. Lincoln Highway	Pennndel, PA 19407	Bucks County	174	19407
<u>Norriton East</u>	Gas	Y	2620 Dekalb Pike	East Norriton, PA 19401	Montgomery County	68	19401
<u>Oak Forest</u>	Gas	Y	2220 Alsace Road	Reading, PA 19804	Berks County	143	19804
<u>Park Court</u>	Gas	Y	28 S. Water Street	Womelsdorf, PA 19567	Berks County	68	19567
<u>Valley Stream</u>	Gas	Y	2100 N. Line Street	Lansdale, PA 19446	Montgomery County	242	19446
<u>Willow Run</u>	Gas	Y	3505 Moreland Road, # E-621	Willow Grove, PA 19090	Montgomery County	172	19090

Eth D

Primary

Property Type

Natural Gas

Address

City State Zip

SQ FT

Bryn Mawr Medical Building

Commercial

600 & 931 Haverford Road,

Haverford, PA 19041

82096

EXH D

WESTOVER EXHIBIT AS-20

Nase, Jonathan

From: Nase, Jonathan
Sent: Tuesday, March 7, 2023 10:37 AM
To: Nase, Jonathan
Subject: PUC MEETING

From: pmetro@verizon.net <pmetro@verizon.net>
Sent: Thursday, October 21, 2021 10:12 AM
To: Peter Quercetti <pquercetti@WestoverCompanies.com>
Subject: RE: PUC MEETING

Peter, we don't need to go inside the apartments, just outside the apartments and streets

From: Peter Quercetti <pquercetti@WestoverCompanies.com>
Sent: Wednesday, October 20, 2021 9:01 AM
To: pmetro@verizon.net
Cc: 'Anthony Rametta' <arametta306@gmail.com>; Russ Duniyak <RDuniyak@entecheng.com>; Alexander Stefanelli <alex@westovercompanies.com>; Ben Klopp <BKlopp@entecheng.com>; 'Andrew Geibel' <ajg206@gmail.com>
Subject: RE: PUC MEETING

Peter, Oak Tree Group needs to see each apartment complex to ultimately make the decision as to jurisdiction. We would need to waive the insurance requirement. I assume that all these apartment complexes are in the public domain, so there should not be an insurance issue.

All of our Apartment Complexes are Private Property. I will check with our Insurance agent.

Pete Quercetti
Vice President of Operations Management
The Westover Companies
550 American Ave. Suite 1
King of Prussia, PA 19406

☎ 610-337-3994



From: pmetro@verizon.net <pmetro@verizon.net>
Sent: Tuesday, October 19, 2021 6:42 PM
To: Peter Quercetti <pquercetti@WestoverCompanies.com>
Cc: 'Anthony Rametta' <arametta306@gmail.com>; Russ Duniyak <RDuniyak@entecheng.com>; Alexander Stefanelli <alex@westovercompanies.com>; Ben Klopp <BKlopp@entecheng.com>; 'Andrew Geibel' <ajg206@gmail.com>
Subject: RE: PUC MEETING

Good evening Peter,

I have attached below research that I did today to answer your question regarding master meters.

Oak Tree reviewed the data and it showed that at Jamestown, all the gas meters were owned by PECO. Are there any other meters at Jamestown? Is there another entity that owns meters inside the building?

In general, if the utility owns the meters at each building, then the system would not be jurisdictional. If there are underground pipelines transporting gas between buildings, then most likely jurisdictional. If there are multiple buildings with 1 or 2 utility meters, underground piping to buildings and a third party meters, then jurisdictional. Third party metering/billing in itself, doesn't mean the facility is jurisdictional.

Peter, Oak Tree Group needs to see each apartment complex to ultimately make the decision as to jurisdiction. We would need to waive the insurance requirement. I assume that all these apartment complexes are in the public domain, so there should not be an insurance issue.

The research info below discusses colleges, but it would apply to apartments.

Below are links to PHMSA interpretation letters regarding Master Meters and whether Master Meters are jurisdictional. I also did some research tonight and found that the PAPUC's Investigation and Enforcement Bureau's (I&E) recent policy to determine whether a University Master Meter operators are jurisdictional is the following:

".....I&E has concluded that the evidence provided does not substantiate that the College is providing gas to customers in addition to providing heat and hot water to campus buildings. Please be advised that I&E's conclusion is predicated on the College's representation that the College's utility expenses are not further allocated, either expressly or impliedly, to any additional cost center beyond general overhead expenses, and that no external organizations or entities rent space from the College."

The key to the above statement is the phrase "utility expenses are not further allocated, either expressly or impliedly to any additional cost center beyond general overhead expenses".

In the PHMSA interpretation letter to Northern Arizona University, PHMSA states the following:

".....You have indicated that NAU's system is within the university's property line and distributes gas to buildings that are "owned and operated by NAU, owned by NAU with portions rented to external entities, or have land leased to external organizations where they own and operate the buildings to support the primary mission of the university. The external organizations include retail, food service, laboratories, offices, and student housing and are charged for natural gas consumption through meters or rent." NAU's gas distribution pipeline system therefore "supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents." Consequently, it meets the definition of a master meter system and NAU operates the pipeline system as a master meter system operator."

The Federal Code defines Master Meters as the following:

Section 191.3 defines a master meter system as: [A] pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

In the other PHMSA interpretation letters PHMSA summarizes its position as follows:

"...In PI-73-030, PHMSA stated that "If the college owned gas system provides gas to consumers such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety standards." (Collins Interpretation, PI-73-030, issued Oct. 24, 1973).

In PI-03-0101, PHMSA explained that a college would not meet the definition of Master Meter System if it were only "using the gas delivered through its pipeline system to provide heat and hot water to campus buildings." In that instance "the college would be the consumer of the gas." It continued to explain, however, that if the college "gas system provides gas to consumers, such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered the customers even though they may not be individually metered. In this situation, the pipelines downstream of the master meter used to distribute the gas to these ultimate consumers would be considered mains and service lines subject to the Federal pipeline safety regulations." In conclusion, the college would be considered a master meter system subject to the pipeline safety regulations if it provides gas to customers in addition to providing heat and hot water to campus buildings. (Bryant College Interpretation, PI03-0101, issued Feb. 14, 2003)."

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/standards-rulemaking/pipeline/interpretations/56626/northern-arizona-university-pi-17-0012-11-07-2017-part-1913.pdf>

<https://cms7.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/standards-rulemaking/pipeline/interpretations/73476/cal-farley-pi-19-0002-02-06-2020-part-1913.pdf>

[https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/Pipeline/2003/g03-02-14 Ledversis 192.3 Master Meter-nlhx.pdf](https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/Pipeline/2003/g03-02-14%20Ledversis%20192.3%20Master%20Meter-nlhx.pdf)

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/Pipeline/1973/PI73030.pdf>

From: Peter Quercetti <pquercetti@WestoverCompanies.com>
Sent: Tuesday, October 19, 2021 4:38 PM
To: pmetro <pmetro@verizon.net>
Cc: Anthony Rametta <arametta306@gmail.com>; pmetro <pmetro@verizon.net>; Russ Dunyak <RDunyak@entecheng.com>; Alexander Stefanelli <alex@westovercompanies.com>; Ben Klopp <BKlopp@entecheng.com>; Andrew Geibel <ajg206@gmail.com>
Subject: RE: PUC MEETING

Did Oak Tree review records for Jamestown to determine whether it is a jurisdictional master meter system?

Pete Quercetti
Vice President of Operations Management
The Westover Companies
550 American Ave. Suite 1
King of Prussia, PA 19406

☎ 610-337-3994



From: Peter Quercetti
Sent: Tuesday, October 19, 2021 11:50 AM

To: pmetro <pmetro@verizon.net>

Cc: Anthony Rametta <arametta306@gmail.com>; pmetro <pmetro@verizon.net>; Russ Duniyak <RDuniyak@entecheng.com>; Alexander Stefanelli <alex@westovercompanies.com>; Ben Klopp <BKlopp@entecheng.com>; Andrew Geibel <ajg206@gmail.com>

Subject: RE: PUC MEETING

Paul-

At the end of our meeting with the PUC on September 20th Scott Orr indicated a scenario in which that properties that we have a PECO meter outside of a building and we have a 3rd party gas meter in individual apartments - would make that property jurisdictional? Can you please confirm this for me?

At our first meeting with the PUC, the exact same scenario described above was Jamestown. At that meeting it was explained to us that this exact same scenario was not jurisdictional. I'm very confused – please advise.

Thanks,

Pete

Pete Quercetti
Vice President of Operations Management
The Westover Companies
550 American Ave. Suite 1
King of Prussia, PA 19406

☎ 610-337-3994



From: Andrew Geibel <ajg206@gmail.com>

Sent: Thursday, September 23, 2021 2:53 PM

To: Peter Quercetti <pquercetti@WestoverCompanies.com>

Cc: Anthony Rametta <arametta306@gmail.com>; pmetro <pmetro@verizon.net>; Russ Duniyak <RDuniyak@entecheng.com>; Alexander Stefanelli <alex@westovercompanies.com>; Ben Klopp <BKlopp@entecheng.com>

Subject: Re: PUC MEETING

When Paul is available, Oak Tree will review records for Jamestown to determine whether it is a jurisdictional master meter system.

In the meantime, here is some info from 49 CFR that defines what a master meter system is:

Section 191.3 defines a master meter system as: [A] pipeline system for distributing gas within, but not limited to, a definable area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means, such as by rents.

To determine whether the operator meets the definition of a master meter system under 49 CFR § 191.3 and, therefore, is subject to the requirements of 49 CFR Parts 191 and 192, we must determine if the pipeline facilities are delivering gas to the ultimate consumer who pays for the gas directly, via a bill, or pays for the gas indirectly through other means, such as rents. In previous interpretations, PHMSA has stated that an entity would not meet the definition of a master meter system if it were only "using the gas delivered through its pipeline to provide heat or hot water to its buildings." 2 In that instance, the entity would be the consumer of the gas. PHMSA went on to say that if the entity provides gas to consumers, such as concessionaires, tenants, or others, it is engaged in the distribution of gas, and the persons to whom it is providing gas would be considered customers even though they may not be individually metered. Based on your responses to PHMSA's questions, it appears the operator would be the consumer of gas since it does not provide gas to concessionaires or tenants.

Pipeline facility is defined in the pipeline safety regulations at 49 CFR § 192.3: ...new and existing pipelines, rights-of-way, and any equipment, facility, or building used in the transportation of gas or in the treatment of gas during the course of transportation. Bryant College's system is clearly a pipeline facility. It distributes gas through underground pipelines to campus buildings.

Definitions:

Operator. A corporation, government entity (municipality, county, utility district, etc.) or an individual that operates a natural gas utility or a housing project, apartment complex, condominium, or mobile home park served by a master meter. The operator is ultimately responsible for complying with the pipeline safety regulations.

Master Meter System. A natural gas pipeline system for distributing natural gas for resale within, but not limited to, a distinct area, such as a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source. The natural gas distribution pipeline system supplies the ultimate consumer who either purchases the gas directly through a meter or by other means such as by rent.

Here are several interpretations of what constitutes a master meter from PHMSA- Pipeline and Hazardous Materials Safety Administration. This is the federal agency that oversees the PA PUC's Pipeline Safety Division.

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/standards-rulemaking/pipeline/interpretations/73266/pennsylvania-puc-pi-19-0016-01-27-2019-part191-3.pdf>

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/standards-rulemaking/pipeline/interpretations/56626/northern-arizona-university-pi-17-0012-11-07-2017-part-1913.pdf>

<https://cms7.phmsa.dot.gov/sites/phmsa.dot.gov/files/docs/standards-rulemaking/pipeline/interpretations/73476/cal-farley-pi-19-0002-02-06-2020-part-1913.pdf>

https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/Pipeline/2003/g03-02-14_Ledversis_192.3_Master_Meter-nlmx.pdf

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/legacy/interpretations/Interpretation%20Files/Pipeline/1973/PI73030.pdf>

On Thu, Sep 23, 2021 at 2:30 PM Peter Quercetti <pquercetti@westovercompanies.com> wrote:

I hope all is well with everyone.

I wanted to follow up on Scott's comment at the end of the meeting.

Scott indicated that properties that have a PECO meter outside of a building and 3rd party gas meter in an apartment makes that property jurisdictional. At the first meeting we had with Scott & Terry this was the exact same scenario we had at Jamestown. At that time he stated all The PUC was worried about is the piping in the ground nothing above ground.

In my notes from our Monday meeting, I have- Scott mentioned that Bob Young has interpreted it this way. Is there somewhere in black and white that explains this?

Thanks,

Pete

Pete Quercetti

Vice President of Operations Management

The Westover Companies

550 American Ave. Suite 1

King of Prussia, PA 19406

☎ 610-337-3994



WESTOVER EXHIBIT AS-21

Nase, Jonathan

From: Wimer, Stephanie M <stwimer@pa.gov>
Sent: Friday, June 4, 2021 3:02 PM
To: Alexander Stefanelli
Cc: Swindler, Michael; Rost, Kayla; Horensky, Robert
Subject: RE: [External] RE: Westover Property Management Company, L.P. d/b/a Westover Companies, Bp8CaseID# 3025977 - I&E Letter

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Stefanelli,

Thank you for acknowledging receipt of I&E's warning letter.

I&E has reviewed the Entech Engineering proposal attached to your email that was sent yesterday afternoon. To be clear, any O&M Manual that is developed by or on behalf of Westover should encompass all jurisdictional master meter systems operated by Westover in any of the apartment complexes that it manages in Pennsylvania. Additionally, registration with the Commission as an Act 127 pipeline operator requires the completion and filing of a form that can be found at the following link: [act127-registration_form.pdf \(pa.gov\)](#).

To the extent that Westover should require additional time beyond June 22, 2021 to complete the tasks necessary to comply with Act 127, I&E will entertain any requests for extension of time at the appropriate time.

Regards,
Stephanie

Stephanie M. Wimer | Senior Prosecutor
PA Public Utility Commission | Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street | Harrisburg PA 17120
Phone: 717.772.8839 | Fax: 717.783.3458
stwimer@pa.gov



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From: Alexander Stefanelli <alex@westovercompanies.com>
Sent: Thursday, June 3, 2021 1:38 PM
To: Wimer, Stephanie M <stwimer@pa.gov>
Cc: Swindler, Michael <mswindler@pa.gov>; Rost, Kayla <karost@pa.gov>; Horensky, Robert <rhorensky@pa.gov>
Subject: [External] RE: Westover Property Management Company, L.P. d/b/a Westover Companies, Bp8CaseID# 3025977 - I&E Letter

ATTENTION: This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.

Ms. Wimer,

First, I want to acknowledge receipt of the June 2, 2020 letter, along with the letters dated February 3, 2021, and March 30, 2021. As Mr. Orr may have told you, the fact that we were subject to the Gas and Hazardous Liquids Pipeline Act caught us by surprise. Since learning about Act 127 from Mr. Orr we have been vetting firms that could offer us guidance and resources to navigate the regulations. On May 24, 2021, we decided to engage Entech Engineering (attached). The timeline that you have laid out looks very aggressive, but I will give you an update on or before June 22nd.

Respectfully,

Alexander Stefanelli, CFO
The Westover Companies
☎ 610-337-3994 | 📠 610-337-2206

Citrix Attachments Expires June 10, 2021

Entech Proposal.pdf 5 MB

[Download Attachments](#)

Alexander Stefanelli uses Citrix Files to share documents securely.

From: Wimer, Stephanie M <stwimer@pa.gov>
Sent: Wednesday, June 2, 2021 4:31 PM
To: Alexander Stefanelli <alex@westovercompanies.com>
Cc: Swindler, Michael <mwindler@pa.gov>; Rost, Kayla <karost@pa.gov>; Horensky, Robert <rhorensky@pa.gov>
Subject: Westover Property Management Company, L.P. d/b/a Westover Companies, Bp8CaseID# 3025977 - I&E Letter

Mr. Steffanelli,

Please see the attached warning letter on behalf of the Bureau of Investigation and Enforcement. In order to avoid the initiation of a formal enforcement proceeding before the Pennsylvania Public Utility Commission, responsive action is due on or before **June 22, 2021**.

Thank you,
Stephanie

Stephanie M. Wimer | Senior Prosecutor
PA Public Utility Commission | Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street | Harrisburg PA 17120
Phone: 717.772.8839 | Fax: 717.783.3458
stwimer@pa.gov



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WESTOVER EXHIBIT AS-22

Nase, Jonathan

From: Alexander Stefanelli <alex@westovercompanies.com>
Sent: Thursday, December 17, 2020 2:08 PM
To: Orr, Scott
Subject: Property Master Report Residential Gas.xlsx
Attachments: Property Master Report Residential Gas.xlsx

Scott,

Here is our PA residential complexes with natural Gas service. List of commercial will be next.

Thanks
Alex

Alexander Stefanelli, CFO
The Westover Companies
550 American Avenue, Suite 1
King of Prussia, PA 19406
📞 610-337-3994 | 📠 610-337-2206

[Send me a file](#)



Primary	Heating Type	Address	City State Zip	Units	Zip
<u>Black Hawk</u>	Gas	1 Black Hawk Circle, #A-02	Downingtown, PA 19355	202	19355
<u>Boothwyn Court</u>	Gas	2820 Chichester Ave	Boothwyn, PA 19061	46	19061
<u>Caln East</u>	Gas	100 Plaza Drive	Downingtown, PA 19335	108	19335
<u>Carlisle Park</u>	Gas	525 Third Street	Carlisle, PA 17013	208	17013
<u>Concord Court</u>	Gas	3701 Concord Road	Aston, PA 19014	84	19014
<u>Country Manor</u>	Gas	2151 E. Lincoln Highway, #E-	Levittown, PA 19056	200	19056
<u>Fox Run</u>	Gas	365 Newtown Road	Warminster, PA 18974	196	18974
<u>Gayley Park</u>	Gas	30 E. Jefferson Street	Media, PA 19063	127	19063
<u>Gladstone Towers</u>	Gas	223 Scottdale Road	Lansdowne, PA 19050	121	19050
<u>Hillcrest</u>	Gas	785 W. Providence Road	Lansdowne, PA 19050	84	19050
<u>Hollow Run</u>	Gas	Hollow Run Lane	West Chester, PA 19380	124	19380
<u>Independence Crossing</u>	Gas	10 Lexington Drive	Phoenixville, PA 19460	364	19460
<u>Jamestown Village</u>	Gas	2501 Maryland Road	Willow Grove, PA 19090	253	19090
<u>Knollwood</u>	Gas	30 Nutt Road	Phoenixville, PA 19460	92	19460
<u>Lansdale Village</u>	Gas	219 York Ave	Lansdale, PA 19446	41	19446
<u>Lansdowne Towers</u>	Gas	772 E. Providence Road	Aldan, PA 19018	231	19018
<u>Main Line Berwyn</u>	Gas	750 Old Lancaster Road	Berwyn, PA 19312	180	19312
<u>Mill Creek</u>	Gas	255 E. Lincoln Highway	Pennel, PA 19407	174	19407
<u>Newport Village</u>	Gas	8590 New Falls Road, Bldg. 1	Levittown, PA 19054	183	19054
<u>Norriton East</u>	Gas	2620 Dekalb Pike	East Norriton, PA 19401	68	19401
<u>Oak Forest</u>	Gas	2220 Alsace Road	Reading, PA 19604	143	19604
<u>Paoli Place</u>	Gas	27 E. Central Ave, #B-10	Paoli, PA 19301	204	19301
<u>Park City</u>	Gas	1710 Swarr Run Road	Lancaster, PA 17601	338	17601
<u>Park Court</u>	Gas	28 S. Water Street	Womelsdorf, PA 19567	66	19567
<u>Rolling Glen</u>	Gas	1531 Rolling Glen Drive, #A	Boothwyn, PA 19061	190	19061
<u>Rosetree Crossing I</u>	Gas	1295 N. Providence Road	Media, PA 19063	110	19063
<u>South Valley Townhomes</u>	Gas	27 E. Central Ave	Paoli, PA 19301	44	19301
<u>Suburban Court</u>	Gas	113 Cricket Ave	Ardmore, PA 19003	100	19003
<u>Valley Stream</u>	Gas	2100 N. Line Street	Lansdale, PA 19446	242	19446
<u>Victoria Crossing</u>	Gas	144 Victoria Lane	Wyomissing, PA 19610	92	19610
<u>Westover Village</u>	Gas	1 Meadow Lane	Norristown, PA 19403	328	19403
<u>Willow Run</u>	Gas	3505 Moreland Road, # E-52	Willow Grove, PA 19090	172	19090
<u>Woodland Plaza</u>	Gas	1701 State Hill Road	Wyomissing, PA 19610	144	19610
<u>Woodview</u>	Gas	940 N. Providence Road	Media, PA 19063	69	19063

WESTOVER EXHIBIT AS-23

Nase, Jonathan

From: Alexander Stefanelli <alex@westovercompanies.com>
Sent: Wednesday, December 30, 2020 2:02 PM
To: Orr, Scott
Cc: Smith, Terri
Subject: RE: Inspection 13388
Attachments: Property Master Report Commercial Gas.xlsx

Here you go. I needed to confirm which had gas.

Alexander Stefanelli, CFO
The Westover Companies
610.337.3994

From: Orr, Scott <scoorr@pa.gov>
Sent: Wednesday, December 30, 2020 1:58 PM
To: Alexander Stefanelli <alex@westovercompanies.com>
Cc: Smith, Terri <tcsmith@pa.gov>
Subject: Inspection 13388
Importance: High

I am still waiting on the data for commercial properties.
I also need to schedule the following inspections: (To be completed in January 2021)

DIMP
OQ
Odorization
Leak Survey/Verification
One Call
Abandonments
And complete the O & M inspection.

Please contact me to schedule these mandated inspections.

Also have you registered under ACT 127 and applied for a OPID (operator number) ?

Scott Orr
Fixed Utility Valuation Engineer
Safety Division
Commonwealth of Pennsylvania
Public Utility Commission
Bureau of Investigation & Enforcement
Pipeline Safety

717 480 2195 (CELL)

Primary	Property Type	Natural Gas	Address	City State Zip	SQ FT	Zip
<u>Audubon Village Shopping Center</u>	Shopping Center	yes	2850 Audubon Village Drive	Eagleville, PA 19403	121352	19403
<u>Bryn Mawr Medical Building</u>	Commercial	600, 931-yes 940-no	600, 931 & 940 Haverford Road,	Haverford, PA 19041	82096	19041
<u>Center Point Place</u>	Shopping Center	yes	Street and York Rd	Warminster, PA 18974	266051	18974
<u>Devon Square</u>	Shopping Center	yes	644-704 Lancaster Avenue	Wayne, PA 19087	170737	19087
<u>Maple Lawn Village</u>	Shopping Center	yes	Pothouse Rd and Kimberton Rd	Phoenixville, PA 19460	72855	19460
<u>Market Tower</u>	Commercial	yes	901 N. Market Street	Wilmington, DE 19801	121206	19801
<u>Mount Laurel Towne Center</u>	Shopping Center	yes	876 Union Mill Road	Mt. Laurel, NJ 08054	88265	08054
<u>Oxford Square</u>	Shopping Center	yes	Route 10 and N. 3rd Street	Oxford, PA 19363	127259	19363
<u>Pennsburg Square</u>	Shopping Center	yes	482 Pottstown Avenue	Pennsburg, PA 18073	129833	18073
<u>The Centre at French Creek</u>	Shopping Center	yes	Township Line Rd & Kimberton Rd	Phoenixville, PA 19460	7218	19460

WESTOVER EXHIBIT AS-24



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

November 1, 2021

Via Electronic Mail Only

Mr. Alexander Steffanelli
Westover Property Management Company, L.P.
d/b/a Westover Companies
550 American Avenue
Suite 1
King of Prussia, PA 19406
alex@westovercompanies.com

Re: Investigation of Westover Property Management Company, L.P. d/b/a
Westover Companies Relating to Possible Violations of Chapter 13 of the
Public Utility Code
Bp8CaseID# 3025977
I&E Data Requests – Set I

Dear Mr. Steffanelli,

As you are aware, the Bureau of Investigation and Enforcement's ("I&E") Safety Division has been investigating Westover Property Management Company, L.P. d/b/a Westover Companies ("Westover") to determine which pipeline facilities at Westover's various apartment complexes constitute "master meter systems" as defined in 49 CFR § 191.3 of the federal pipeline safety regulations and, consequently, are subject to Pennsylvania Public Utility Commission ("Commission") oversight through the Gas and Hazardous Liquids Pipelines Act ("Act 127"), 58 P.S. §§ 801.101, *et seq.* During the course of the Safety Division's inspections of Westover's properties, the Safety Division learned of allegations that tenants residing in Westover's apartment complexes may be billed more than the residential rate set forth in the applicable natural gas public utility's current tariff.

The purpose of this letter is to advise you that consistent with Sections 331(a) and 506 of the Public Utility Code, 66 Pa.C.S. §§ 331(a) and 506, and Section 3.113 of the Commission's regulations, 52 Pa. Code § 3.113, prosecutory staff in I&E, referred to as "I&E Enforcement," are initiating an investigation of Westover concerning the billing practices for natural gas service at Westover properties located in Pennsylvania.

At this time, I&E understands the pertinent facts to be as follows: Westover, or a third-party contractor acting on behalf of Westover, purchases natural gas from a natural gas distribution company ("NGDC"), such as PECO Gas or UGI Utilities Inc. Westover, or a third-party contractor acting on behalf of Westover, then resells the natural gas to

tenants residing in Westover properties. Some tenant bills may exceed the amount that the NGDC would bill its own residential customers for the same quantity of service/consumption. As a result of these practices, Westover, or a third-party contractor acting on behalf of Westover, may be in violation of Section 1313 of the Public Utility Code, 66 Pa.C.S. § 1313 (related to the price upon resale of public utility services).

I&E, acting under delegated authority, is initiating its investigation pursuant to its responsibility to enforce compliance with the Public Utility Code, Commission regulations and orders. *See* 66 Pa.C.S. § 308.2(a)(11); *See also Implementation of Act 129 of 2008; Organization of Bureaus and Offices*, Docket No. M-2008-2071852 (August 11, 2011) (delegating authority to initiate enforcement actions to I&E). Pursuant to 52 Pa. Code § 3.113(a), I&E's prosecutory staff is authorized to conduct investigations regarding the condition and management of a public utility *or other corporation* subject to Commission jurisdiction. The purpose of such investigations is to gather data or substantiate allegations of potential violations of the Public Utility Code and other applicable statutes and regulations. Should I&E determine that no violation or potential violation has occurred, the investigation will be terminated by letter. 52 Pa. Code § 3.113(b)(1). In the event that I&E determines that violations or potential violations occurred and that formal action is warranted, I&E may initiate a docketed, on-the-record proceeding to resolve the issues. 52 Pa. Code § 3.113(b)(2).

Throughout the course of this investigation, I&E may make information and document requests directed to your attention and may conduct interviews or depositions. If you are not the individual to whom data and document requests and deposition notices should be sent regarding this matter, please furnish the name, title, address, telephone number, and e-mail address of the appropriate individual.

At this time, I&E has the following inquiries and document requests regarding this matter. With regard to the following inquiries, provide the name(s), title(s), and contact information of the Company representative(s) responsible for sponsoring each response to I&E's Data Requests – Set I.

Some of the below data requests may be deemed by Westover to direct a response that requires Westover to provide confidential information. Provide all such information in the responses and mark responses "Confidential" as deemed necessary. All confidential responses will be treated accordingly.

The Company's responses should be provided to the undersigned on or before **November 22, 2021**.

I&E Data Requests – Set I

1. List the apartment complexes in Pennsylvania that are owned and/or managed by Westover where tenants receive a bill for natural gas service either from Westover or a third-party contractor and not directly from the NGDC or natural gas public utility.
2. For each apartment complex listed in response to I&E Data Requests – Set I, No. 1, provide:
 - a. The name of the NGDC or natural gas public utility that provides natural gas to the apartment complex;
 - b. Whether Westover or a third-party contractor purchases metered natural gas directly from the NGDC or natural gas public utility, *i.e.*, pays the bill. If a third-party contractor exclusively performs this function, identify the name of and provide the contact information for the third-party contractor;
 - c. Whether Westover or a third-party contractor resells the natural gas purchased from the NGDC or natural gas public utility to residential tenants, *i.e.*, collects the money from tenants. If a third-party contractor exclusively performs this function, identify the name of and provide the contact information for the third-party contractor;
 - d. Whether a third-party contractor provides Westover with meters or submeters. If answered affirmatively, identify the name of and provide the contact information for the third-party contractor;
 - e. From January 1, 2021, the total number of residential tenants that received natural gas that is resold and billed by Westover. Provide this number on a calendar year quarterly basis;
 - f. From January 1, 2021 to the present time, any and all sample copies of lease agreements, contracts and/or other communications concerning natural gas service that Westover provided to residential tenants;
 - g. From January 1, 2021 to the present time, any and all sample bills for natural gas service that Westover provided to residential tenants;
 - h. From January 1, 2021 to the present time, the formula used by Westover to calculate charges on the bills that are for and/or include natural gas service

that are sent to residential tenants. Include any fixed monthly customer charges, state tax charges and charges per Ccf or Mcf (such as commodity charges and distribution charges).

3. With regard to tenants residing in Westover properties that receive natural gas, provide all billing data for natural gas service billed by Westover to those tenants from January 2021 through October 2021. The billing data shall be provided on a separate spreadsheet for each month and for each of the apartment complexes identified in response to I&E Data Requests – Set I, No. 1. The billing data spreadsheet shall include identification of the customer (by name, address or account number), the applicable billing period, the amount of natural gas consumed, a column for each separate charge (such as a customer charge, state tax charge, commodity charge, distribution charge and any other charge per Ccf or Mcf or charge that is otherwise based on consumption), and the total amount billed.
4. Provide all contracts, agreements or any other documentation evidencing an agreement between Westover and any third-party contractor named in response to I&E Data Requests – Set I, No. 2(b) – (d).
5. Explain the services provided by any third-party contractor named in response to I&E Data Requests – Set I, No. 2(b) - (d), as it relates to purchasing, metering or billing for the natural gas consumed by tenants residing in Westover properties.
6. For each apartment complex listed in response to I&E Data Requests – Set I, No. 1, indicate whether Westover receives a bill for natural gas service from an NGDC or natural gas public utility concerning any gas consumed in areas that are beyond the responsibility of residential tenants, *i.e.*, common areas. If answered affirmatively, provide a copy of each bill received from January 1, 2021 to the present time.

Please be advised that the Commission's regulations require that you automatically update your responses, as needed. Moreover, I&E may request additional documents and information in the future should it be deemed necessary.

Regardless of any document retention policy, you are directed to retain under your control and not destroy all physical or electronic drafts or final documents, information and data, including, but not limited to, corporate records, memoranda, accounts, employee or policy documents, training documents, advertising, contracts, contract proposals, mail and electronic mail, web pages, internet information, computer programs,

databases and any other information in physical or electronic form which may pertain to this matter.

Inquiries and communications regarding this investigation should be addressed to the undersigned as follows:

Stephanie M. Wimer, Senior Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
400 North Street
Harrisburg, PA 17120
Telephone: (717) 772-8839
Email: stwimer@pa.gov

Thank you for your immediate attention to this matter. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Stephanie M. Wimer
Senior Prosecutor, I&E

cc: *(via email only)*
Michael L. Swindler, Esq., I&E Deputy Chief Prosecutor
Kayla L. Rost, Esq., I&E Prosecutor
Terri C. Cooper Smith, Supervisor – Safety Division
Scott Orr, Engineer – Safety Division
David P. Zambito, Esq., Cozen O'Connor

WESTOVER EXHIBIT AS-25



September 30, 2021

Mr. Alexander Stefanelli
Chief Financial Officer
The Westover Companies
550 American Avenue, Suite 1
King of Prussia, PA 19406

Dear Mr. Stefanelli,

I am providing this letter in response to your letter dated August 27, 2021 requesting verification for gas source odorant concentration as stipulated in 49 CFR 192.625(f)(1) at the master meter locations noted below:

- Carlisle Park, 525 Third Street, Carlisle, PA 17013;
- Oak Forest, 2220 Alsace Road, Reading, PA 19604; and
- Park Court, 28 S. Water Street, Womelsdorf, PA 19567.

Please accept this letter as verification that UGI's odorant monitoring program includes the gas source(s) supplying the above locations and as confirmation of compliant concentration of odorant within each source.

Sincerely,

A handwritten signature in black ink that reads 'Don Ontko'. The signature is written in a cursive, flowing style.

Don Ontko
Senior Manager Operations – Measurement & Regulation
UGI Utilities, Inc.



An Exelon Company

September 9, 2021

Alexander Stefanelli
The Westover Companies
550 American Avenue, Suite 1
King of Prussia, PA 19406

Dear Mr. Stefanelli:

On August 27, 2021, you requested that PECO provide written verification related to natural gas odorant concentrations for your master meter system(s) that connect to PECO's natural gas distribution system.

This letter verifies that the natural gas your master meter system(s) receives from your source, PECO's natural gas distribution system, has the proper concentration of odorant per the requirements of 49 CFR Part 192.

PECO's highest priority is safety. It is PECO's policy to comply with all federal and state laws and regulations. If you have any questions or need additional information, please contact me at (215) 841-5719 or PECOGasAssetManagementPerformance@exeloncorp.com.

Ryan D. Lewis
Manager, Gas Engineering and Asset Performance
PECO, *An Exelon Company*
2301 Market Street, S9-1
Philadelphia, PA 19103

VERIFICATION

I, Alexander Stefanelli, hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: April 17, 2023

