

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	M-2023-3019782
	:	
Mifflin Energy Corp.	:	

**COMMENTS
OF THE
PENNSYLVANIA INDEPENDENT OIL & GAS ASSOCIATION**

In accordance with the Commission’s Order in this matter entered September 21, 2023, and published in the Pennsylvania Bulletin October 7, 2023, 53 Pa.B. 6346, the Pennsylvania Independent Oil & Gas Association (PIOGA)¹ submits these comments concerning the Joint Petition for Approval of Settlement (Settlement) with respect to an informal investigation conducted by the Commission’s Bureau of Investigation and Enforcement (I&E) regarding the April 9, 2020 natural gas Incident at 134 Water Dam Road.

PIOGA respectfully requests that the Commission reject the Settlement because the facts and the law clearly show that the Incident involved facilities and pipelines that are not subject to the Pipeline and Hazardous Materials Safety Administration’s (PHMSA) jurisdiction under the Federal pipeline safety laws² and, accordingly, the Commission’s

¹ PIOGA is a trade association representing oil and natural gas interests throughout Pennsylvania. PIOGA has over 330 members, including oil and natural gas producers, Commission-licensed natural gas suppliers and marketers, drilling contractors and service companies, as well as various professional firms, individuals and royalty owners. PIOGA members are involved in producing natural gas from conventional and unconventional formations. PIOGA is submitting these comments primarily on behalf of its conventional producer members, including Mifflin Energy Corp. and Mifflin Energy Resources, and their landowner/lessor partners and royalty owner members.

² “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

jurisdiction under Act 127 of 2012.³ A desire to hold someone responsible for the Incident – other than the farm tap consumer who moved the pressure regulator and meter on the portion of his consumer-owned piping that leaked – does not provide the Commission with a legitimate basis for prosecuting a nonjurisdictional producer of natural gas. Nor does a PHMSA staff letter interpretation obtained by I&E during the course of an ongoing investigation without prior notice to the affected party, Mifflin Energy, provide a legitimate basis.

Accordingly, PIOGA respectfully requests that the Commission provide clear direction to I&E staff, producers and the public concerning the statutory limitation of its jurisdiction and authority under Act 127 concerning production operations and consumer-owned piping by rejecting the proposed Settlement and vacating the prosecution.

**The facilities and pipelines involved in the Incident are
nonjurisdictional to PHMSA and the Commission.**

PIOGA wholeheartedly agrees with Chairman DeFrank’s observation in his Statement that “[a] better understanding of this issue of who is responsible for any remedial measures is necessary before determining whether the proposed settlement is in the public interest and should be approved.” These comments attempt to provide that better understanding to demonstrate the trouble with the Chairman’s directive that the Commission “must ensure that we are doing everything possible to prevent such incidents from ever occurring, regardless of who is the current owner of specific facilities.”

While PIOGA agrees with the Commission’s desire to do everything possible to prevent such incidents, the Commission’s efforts – as well as PHMSA’s – are constrained

Safety Improvement Act of 2002 (Public Law 107-355, 116 Stat. 2985) and the regulations promulgated under the acts. Act 217, Section 102 (Definitions).

³ “The provisions of this act shall apply only to pipelines, pipeline operators or pipeline facilities regulated under Federal pipeline safety laws.” Act 127, Section 103 (Applicability); “The safety standards and regulations for pipeline operators shall be those issued under the Federal pipeline safety laws as implemented in 49 CFR Subtitle B Ch. I Subch. D (relating to pipeline safety).” Act 127, Section 302 (Adoption of Federal pipeline safety laws).

by the Federal pipeline safety laws. This constraint depends upon the *function* of the specific facilities involved – which determines whether the person responsible for maintenance and remedial measures concerning the specific facilities involved is an “operator” as defined under the Federal pipeline safety laws. If the function of the specific facilities involved is not within the scope of the Federal pipeline safety laws, then the owner/operator of the facilities is not an “operator”. Even I&E does not dispute that a consumer receiving natural gas through consumer-owned piping is not an “operator”.

Simply put, under the Federal pipeline safety laws, PHMSA and the Commission have no jurisdiction and authority over *production operations and consumer-owned piping* – the only facilities involved in this matter, notwithstanding the legal argument statements presented as “facts” in the Settlement and PHMSA’s staff interpretation letters and Proposed Frequently Asked Questions (FAQs), as explained below. The consumer’s movement of the consumer’s pressure regulator and Mifflin Energy’s meter from its location on the consumer-owned piping immediately adjacent to the production line farm tap to a location closer to the consumer’s house – as authorized by the Shoup lease⁴ – *cannot, as a matter of fact and law, cause Mifflin Energy to “unwittingly” become an “operator” responsible for compliance with all the requirements of Act 127.*⁵ This is because neither the producer nor the consumer are, or were at any time, involved in the

⁴ Attachment 1, p.4.

⁵ Joint Petition for Approval of Settlement, ¶37.

“transportation of gas”⁶ which is an absolute jurisdictional predicate for regulation under the Federal pipeline safety laws⁷ and Act 127.⁸

The “transportation of gas” does not include production operations,⁹ and the consumer’s movement of the consumer’s pressure regulator and Mifflin Energy’s meter to a different location on the consumer’s piping does not transform¹⁰ the function of the consumer’s piping to distribution piping¹¹ – which does not include production piping or consumer-owned piping.

There can be no dispute that this matter involves *only* consumer-owned piping directly connected to a production pipeline, notwithstanding I&E’s (and the Settlement’s) use of the defined term “service line” to describe the consumer-owned piping directly connected to the production line farm tap. The Commission’s September 21, 2023 Opinion

⁶ “*Operator* means a person who engages in the transportation of gas.”; “*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.” 49 CFR § 192.3 (Definitions).

⁷ See 49 U.S.C. § 60101(21)(A); 49 C.F.R. §§ 192.8 and 192.9. See also PHMSA Letter of Interpretation to Mr. Edward M. Steele, Public Utilities Comm’n of Ohio, PI-92-010 (Mar. 12, 1992) (“Part 192 does not apply to production facilities”); PHMSA Letter of Interpretation to Mr. Lance Fellhoalter, Engineering Technician, OXY USA, Inc. PI-93-060 (Oct. 8, 1993) (“The regulations in Parts 40, 191, 192, and 199 apply to pipeline facilities used in the transportation of gas beginning at the end of the production process.”).

⁸ “‘Transportation of gas.’ The gathering, transmission or distribution of gas by pipeline or the storage of gas.” Act 217, Section 102 (Definitions).

⁹ API RP 80 – unlike PHMSA’s Proposed FAQs and letter interpretations – *is* a regulation (49 CFR § 192.8(a)), and defines production operations:

"Production Operation" means piping and equipment used for production and preparation for transportation or delivery of hydrocarbon gas and/or liquids and includes the following processes:

- (a) extraction and recovery, lifting, stabilization, treatment' separation, production processing, storage, and measurement of hydrocarbon gas and/or liquids; and
- (b) associated production compression, gas lift, gas injection, or fuel gas supply.

<https://law.resource.org/pub/us/cfr/ibr/002/api.80.2000.pdf>, at p.6

¹⁰ See Joint Petition for Approval of Settlement, ¶s 18, 24, 26, 27, 32 and 37.

¹¹ “*Distribution line* mans a pipeline other than a gathering or transmission line.” 49 C.F.R. § 192.2 (Definitions).

and Order (pp.3-4) correctly describes that the two homes in this matter received natural gas through consumer-owned piping directly connected to a Mifflin Energy 2-inch production line by a T tap with “two shut-off valves, one on each side of the tap. One side of the tap *serves* 134 Water Dam Road and *the other side has a consumer-owned pipe running to 169 Water Dam Road.*” (Emphasis added). There is no basis for disputing that the other side of the tap also had “a consumer-owned pipe running to” 134 Water Dam Road, which I&E does not contest despite its repeated use of the defined term “service line” to describe this piping.

Words matter, especially a defined term that determines the ultimate legal issue presented in this matter. The Settlement petition, as well as I&E’s Statement in Support of Approval of the Settlement, are replete with references to “service line” that are presented as a “fact” found by I&E’s investigation – including the portion of Paragraph 16 that is the basis for the Commission’s correct description quoted in the paragraph immediately above:

At the tap, there is a “T” and two shut-off valves, one on each side of the tap. On one side of the tap, there is a *service line* serving 134 Water Dam Road. On the other side of the tap, there is a *consumer-owned pipe* running to 169 Water Dam Road. The consumer-owned piping to 169 Water Dam Road originates on the property of 134 Water Dam Road, crosses a public township road, and terminates on the property of 169 Water Dam Road. (Emphasis added).

The other references in the Settlement petition using the defined term “service line” to describe the consumer-owned piping directly connected to the production line farm tap are in the following Paragraphs:

15. It is not known if the owners of the home built at 134 Water Dam Road were aware they were constructing their home close to the *service line* that conveyed gas from Mifflin Energy’s production facilities to the property at 169 Water Dam Road.

17. The meter and regulator for the *service line* to 134 Water Dam Road are immediately adjacent to the tap, and approximately 1,000 feet away from the former residential structure at 134 Water Dam Road. The consumer-owned *service line* to the former residential structure at 134 Water Dam Road is plastic.

18. The meter and regulator for the consumer-owned *service line* to 169 Water Dam Road were also immediately adjacent to the tap prior to March 2020.

19. Prior to the consumer-owner relocating its pressure regulator and the Mifflin Energy meter, Mifflin Energy did not require a pressure test of the *service line* serving 169 Water Dam Road. . . . The gas leak occurred on the 1-inch bare steel *service line* to 169 Water Dam Road between the Mifflin Energy tap and the relocated meter serving 169 Water Dam Road.

21. The suspected cause of the Incident was a leak on *the service line* connected to piping that Mifflin Energy considers to be a production line where gas was supplied from a Company well. The *service line* delivered natural gas to the home at 169 Water Dam Road.

24. The I&E Safety Division’s investigation found that the relocation of the meter to 169 Water Dam Road affected the treatment of the *service line* to 169 Water Dam Road, rendering it to be a jurisdictional “service line” that is subject to pipeline safety regulation.

32. It is I&E’s position that moving the meter to a location away from the tap and adjacent to the residence at 169 Water Dam Road transformed the *service line* into a jurisdictional “service line” . . .

The “better understanding of this issue of who is responsible for any remedial measures” identified by Chairman DeFrank as necessary “before determining whether the proposed settlement is in the public interest and should be approved” is hampered, not promoted, by the I&E’s use of the defined term “service line” as a “fact” when that is the ultimate legal issue in this case. Legal argument provide the substantial evidence necessary to support an adjudication in this matter. The apparent attempt to disguise “service line” as a generic term rather than a defined term by the use of the adjective “jurisdictional” in Paragraphs 24 and 32 does not cure the legal problem asserted here, or the hampering of the “better understanding” identified by Chairman DeFrank. All of the references to “service line” set forth above must be changed to “consumer-owned piping” to be factually correct and provide the better understanding identified by Chairman DeFrank.

PHMSA’s position that farm taps “generally” are distribution lines is not stated in the Federal pipeline safety laws and is contrary to the exclusion of production operations and consumer-owned piping from the scope of the Federal pipeline safety laws.

Paragraph 24 of the Settlement petition states:

The I&E Safety Division’s investigation found that the relocation of the meter to 169 Water Dam Road affected the treatment of the service line to 169 Water Dam Road, rendering it to be a jurisdictional “service line” that is subject to pipeline safety regulation. Federal pipeline safety regulations define a “service line” as:

*a **distribution line** that **transports** gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A [**distribution**] **service line ends** at the outlet of the customer meter or at the connection to a customer's piping, whichever is further downstream, or at the connection to customer piping if there is no meter.*

49 CFR § 192.3.

As shown above, neither production lines nor consumer-owned piping supplying natural gas to farm tap consumers pursuant to lease agreements or right-of-way agreements are involved in the jurisdictional predicate act, *i.e.*, the “transportation of gas”, that is necessary to be subject to regulation under the Federal pipeline safety laws and Act 127. Accordingly, neither producers supplying the gas nor consumers using the gas are “operators” under the Federal pipeline safety laws and Act 127. So farm taps directly connected to production lines that supply gas to the consumers through consumer-owned piping cannot be regulated as “distribution lines” under the Federal pipeline safety laws and Act 127 because the first part of the regulatory definition (“a ***distribution line*** that ***transports*** gas”) is not met, which means that the following part of the regulatory definition (“A ***service line*** ends”) also is not met.

Nonetheless, PHMSA and the Commission take the position that farm taps generally are distribution lines. For example, PHMSA’s Proposed FAQs for Farm Taps states:

FAQ #4 – How does an operator determine if a farm tap is regulated by PHMSA?

Answer: Because there are many individual, varied scenarios, PHMSA cannot define an explicit regulatory treatment of every farm tap installation. Generally, any portion of a farm tap that meets the definition of a service line is a gas distribution service line subject to the applicable requirements of Part 192. A service line is regulated ***regardless of whether the common source of supply is regulated by PHMSA***. A regulated service line may originate from an unregulated production or gathering pipeline. As described in FAQ #3, ***the service line begins at the first isolation point*** and ends at the outlet of the meter or the inlet of customer-owned piping, whichever is upstream.¹²

PHMSA’s Proposed FAQs and answers, as well as PHMSA staff interpretation letters such as the one relied upon by I&E in this matter, are not regulations and do not create legally enforceable rights or obligations, as stated in the PHMSA staff interpretation letters. The ***standards emphasized*** in the FAQ answer above, which are repeated in various PHMSA staff interpretation letters, are not found in PHMSA’s regulations and, accordingly, cannot create legally enforceable standards or obligations.

However, PHMSA’s answer to FAQ #4 also states:

Under certain circumstances, a farm tap may not include a distribution service line. . . . If customer-owned piping connects directly to the first isolation point, it is possible that no portion of the farm tap operated by the source pipeline operator is a service line.

Despite the legal limitations of PHMSA Proposed FAQs and answers, PIOGA submits that this portion of the answer is a correct statement of existing Federal pipeline safety law applicable in this matter, provided: (i) this language (“to the first isolation point”) is excluded and replaced by “to a production line”, for the reasons set forth above; and (ii) this language (“it is possible that”) is deleted.

¹² PHMSA Proposed FAQs for Farm Taps, <https://www.phmsa.dot.gov/news/now-available-phmsa-proposed-faqs-farm-taps>, (emphasis added).

**I&E fails to understand the exclusion of production operations from
the Federal Pipeline safety laws and Act 127.**

PIOGA respectfully suggests that I&E staff's failure to understand the significance of the exclusion of production operations and pipelines from the scope of the Federal pipeline safety laws and, accordingly, Act 127, stems from the Commission's failure to address PIOGA's request in its comments to the Commission's January 12, 2012 Tentative Implementation Order:

PIOGA further requests that the Commission "confirm" or "expressly confirm" various assertions regarding the scope of its jurisdiction under Act 127. The requested confirmations are: (a) production pipelines are excluded from Act 127; . . .¹³

The Commission mentioned PIOGA's request, but neither confirmed nor denied the requested exclusion and, indeed, the word "production" is not found elsewhere in the order. The closest the PUC came to addressing the requested confirmation of the exclusion was in the section addressing "**Tubular Steel Reporting**":

The Commission notes that only "pipeline operators" are subject to Act 127. *Therefore, natural gas producers and well operators that do not operate pipelines subject to Act 127 have no reporting obligations. We do not believe the General Assembly intended for anyone other than "pipeline operators" to have the obligation to report the country of manufacture for tubular steel products. Accordingly, we will limit steel pipe disclosure to pipeline operators subject to Act 127. Accordingly, steel pipe used on the well pad and in downhole operations will not be subject to disclosure reporting.*¹⁴

This incomplete reference to production operations in this limited context did not provide clear direction to I&E staff, producers and the public concerning the statutory limitation of the Commission's jurisdiction and authority under Act 127 concerning production operations. This in turn explains I&E's inadequate investigation concerning the consumer's

¹³ Final Implementation Order entered February 17, 2012, at 3.

¹⁴ *Id.*, at 6 (emphasis added).

action that I&E describes as providing the basis for the Commission’s jurisdiction and authority over producer Mifflin Energy in this matter.

I&E’s investigation of the Incident failed to discover facts concerning who performed the work, and how, relocating the farm tap consumer’s pressure regulator and Mifflin Energy’s meter on the consumer’s piping.

I&E asserts that the basis for the Commission’s jurisdiction and authority over Mifflin Energy was the consumer-owner’s relocating his pressure regulator and the Mifflin Energy meter closer to the production line farm tap consumer’s home.¹⁵ Yet there is no mention whatsoever of I&E’s investigating who did this relocation work for the consumer or how the work was done. In view of I&E’s conclusion that the “suspected” cause of the explosion was a leak¹⁶ on the portion of the consumer-owned piping involved in the relocation,¹⁷ the lack of factual information concerning this relocation work is inexplicable, and raises many questions, such as:

Did I&E talk to the homeowner who requested the relocation?

Was the relocation done by a licensed plumber qualified to do such work?

Was the work done by a friend or relative of the farm tap consumer?

Did the consumer perform a “DIY” (do-it-yourself) relocation?

What type of testing was done, and by whom, to ensure that the consumer-owned piping was safe after the relocation?

Instead of discovering facts concerning this pivotal event, I&E faults the *producer* for (i) not requiring a pressure test of the consumer-owned piping prior to the consumer-owner’s relocating these facilities and (ii) not having a written record of the relocation work¹⁸ – even though I&E asserts that the producer became responsible for these actions “unwittingly” and *only after* the relocation work was done. I&E’s description of the facilities involved – properly understood – concedes that *prior* to this relocation work being

¹⁵ Settlement petition at ¶s 19, 21, 24, 32 and 37.

¹⁶ *Id.*, at ¶ 21.

¹⁷ *Id.*, at ¶ 19.

¹⁸ *Id.*

done, the pipeline was consumer-owned piping for which Mifflin Energy had no maintenance or testing responsibility per the Shoup lease (*see* Attachment 1, p.4).

I&E assertions that (i) Mifflin Energy could be penalized for these, and other alleged violations of Act 127 and applicable Federal pipeline safety regulations, up to the amount of \$2,186,465¹⁹ and (ii) the proposed Settlement civil penalty of \$100,000 is a “fair and equitable civil penalty”²⁰ is simply illogical in view of I&E’s conclusion that Mifflin Energy became an “operator” “unwittingly” and I&E’s failure to show that Mifflin Energy had any role in performing the relocation work.

I&E’s inadequate investigation has hampered the Commission’s “better understanding of this issue of who is responsible for any remedial measures” in this matter sufficiently to contradict any notion that the proposed Settlement is in the public interest and should be approved.

The consumer, not the producer, is responsible for the Incident and any remedial measures required in this matter, and the remedy for preventing such incidents is not found in the Federal pipeline safety laws and Act 127.

Based on I&E’s investigation, the consumer who moved the regulator and meter on the consumer-owned piping that leaked and caused the explosion is responsible for the Incident. The answer to Chairman DeFrank’s question “of who is responsible for any remedial measures” in this matter is clear under the Federal pipeline safety laws and Act 127 – the consumer who moved the regulator and meter – and reveals the harsh reality that terrible accidents happen and that neither PHMSA nor the Commission can prevent all such incidents from ever occurring again, especially when the accident occurs on pipelines nonjurisdictional to PHMSA and the Commission.

Had I&E investigated who did that relocation work, and how, I&E may have determined that the way to try to prevent such incidents from occurring in the future is by private causes of action to make certain that relocating such equipment on consumer-owned

¹⁹ *Id.*, at ¶ 10-13, 32 and 34.

²⁰ *Id.*, App. B, at 12.

pipng is done by licensed plumbers qualified to do such work. This is done by the enforcement of local codes regulating the plumbers' work, and resort to tort (negligence) law, contract law and insurance law. The remedy in this matter is simply beyond the Commission's and PHMSA's jurisdiction and authority.

Conclusion

WHEREFORE, for all the foregoing reasons, PIOGA respectfully requests that the Commission reject the proposed Settlement and vacate the prosecution.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kevin J. Moody". The signature is written in a cursive style and is enclosed within a faint, light-colored rectangular border.

Kevin J. Moody, Esquire
General Counsel
PIOGA
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Harrisburg, PA 17101-1510
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Dated: November 1, 2023

Attachment 1

MARGARET E. SHOOP, et al

to

⁴³⁶
KEPCO, INC., ~~400~~ Boulevard of the Allies, Pittsburgh, PA 15219

Dated MAY 3, 1982 Acres 210
District _____
Township Washington County Greene State Pa.
Map Location _____

STATE OF WEST VIRGINIA

COUNTY OF _____, to wit:

I, _____, a _____ of said County
of _____, do certify that _____
_____ whose name
_____ signed to the writing hereto annexed bearing date the _____ day of _____, 19____,
ha _____ this day acknowledged the same before me, in my said County.

Given under my hand and _____ seal, this _____ day of _____, A.D. 19____.

My Commission expires _____

Notary Public

(West Virginia Acknowledgment - Corporation)

STATE OF WEST VIRGINIA

COUNTY OF _____, to wit:

I, _____, a _____ of said County of
_____, do certify that _____, who signed the writing hereto
annexed, bearing date the _____ day of _____, 19____, for _____
_____, has this day in my said County, before, me acknowledged the said writing to be the act and deed of
said corporation.

Given under my hand and _____ seal, this _____ day of _____, A.D. 19____.

My Commission expires _____

Notary Public

LEASE, Made this 2nd day of May, A.D. 1982, between Margaret E. Shoup, w. dow; Charles N. Headlee and Virginia L. Headlee, h. s. w. fe, Kelsa Hakey, Jr. and Eva M. Hakey, his wife, Shirley K. Beyer and Charles H. Beyer, her husband. part ies of the first part, hereinafter called "Lessor", and KEPCO, INC., a Kentucky corporation, party of the second part, hereinafter called "Lessee",

Witnesseth: That the Lessor, in consideration of the sum of ONE DOLLAR in hand paid, receipt whereof is hereby acknowledged, and of the covenants and agreements hereinafter contained on the part of the Lessee, to be paid, kept and performed, hereby leases and lets unto the Lessee, for its exclusive possession and use for the purpose of exploring and operating for and producing and saving oil and gas by all methods now known or hereafter known or hereafter discovered, and of injecting gas, air, water or other fluids into any subsurface strata for the purpose of recovering and producing oil and gas, and of pooling or unitizing the same with other lands for such purposes, as hereinafter more fully set out and for storing gas in the substrata thereof, and protecting stored gas, all that certain tract of land situate in Washington ~~District~~ Township,

Greene County, Pennsylvania, on the waters of Wisecarver Run, bounded by

lands now or formerly owned as follows:

North by Other Lands of Lessors (formerly Daniel Brown farm) and A. Muckle

East by A. Muckle and Charley Meeks (formerly Harvey Taylor farm)

South by George Allison, Joe Phillips (formerly Thomas Pettit)

West by Stanley Shoup (formerly J. W. Closser)

containing - - - - - Two Hundred Ten - - - - - (- 210 -) acres, more or less.

The term "gas" as used in this lease shall mean gases and gaseous substances of all kinds, whether hydrocarbon or non-hydrocarbon, including specifically, but not limited to, dry gas, casinghead gas, helium, carbon dioxide and nitrogen and their constituent parts.

The Lessee shall have during the term of this lease the exclusive right to enter upon the above described land to conduct geological and geophysical surveys and explorations, and to operate for, produce and save oil and gas; and to inject gas, air, water or other fluids into the subsurface strata of said land for the recovery and production of oil and gas; together with the right to drill wells, recondition producing wells and redrill and use abandoned wells on said land for all such purposes; together with the right to use said land or any other land with which the premises hereby leased is pooled or unitized as hereinafter provided; together also with rights of way and servitudes on, over and through said land for roads, pipelines, telephone and telegraph lines, electric power lines, structures, plants, drips, tanks, stations, houses for machinery, gates, meters, regulators, tools, appliances, materials and other equipment used in exploring for and producing oil and gas, and all other rights and privileges necessary, incident to and convenient for the operation of said land for production, and transportation of oil and gas, and the injection of gas, air, water or other fluids for the recovery and production of oil and gas; and together also with the right to use oil, gas and water from said land free of cost to Lessee for all such purposes, and with the right but not the obligation of removing, either during or after the term hereof, any and all property and improvements placed or located on said land by Lessee, including the right to draw and remove casing; and together also with the right of ingress, egress and regress on, over and through said land for any of the purposes aforesaid; together with the right to use said land or any other land with which the premises hereby leased is pooled or unitized, as hereinafter provided.

The Lessee shall have during the term of this lease the exclusive right to use said well or wells for the storage of gas subject to all of the terms and conditions of this lease as though said well or wells had been drilled as a new well after the execution of this lease; to inject gas for storage or repressuring in the substrata, and to remove same therefrom by pumping or otherwise; in or for protecting gas stored under other land embraced in the storage pool, together with all those other rights granted to Lessee in this lease. *Lessor is not granting herein any gas storage rights.* Five (5)

To Have and to Hold the said land and privileges for the said purposes for and during a period of Ten Years from June 1, 1982, and as long after commencement of operations as said land, or any portion thereof or any other land pooled or unitized therewith as hereinafter provided, is operated for the exploration or production of gas or oil, or as gas or oil is found in paying quantities thereon or stored thereunder, or as long as said land is used for the storage of gas or the protection of gas storage on lands in the general vicinity of said land. It is understood that a well need not be drilled on the leased premises to permit the storage of gas thereunder and the Lessee shall be the sole judge of when and if said land is being used for the storage of gas or the protection of gas storage on lands in the general vicinity of said land. The Lessee shall have the right to shut-in any and all wells on said land on payment of a shut-in royalty as hereinafter set forth.

E.M.
ENB
P.W.H.
J.L.H.
K.M.
M.E.S.
S.K.B.
H.B.

described above with any other lease, leases, land or lands, mineral estates or any of them whether owned by the Lessee or others located in the vicinity of said leased premises, so as to create one or more drilling or production units of such size and acreage as Lessee may desire. In the event of the unitization of the whole or any part of the land covered by this lease, Lessee shall, before or after the completion of a well, record an instrument describing and designating the pooled acreage as a pooled unit in the County wherein the leased premises is located, and mail a copy thereof to the Lessor. In order to give effect to the known limits of the oil and gas pool as such limits may be determined from available geological or scientific information or drilling operations, Lessee may at any time increase or decrease that portion of the acreage covered by this lease which is included in any drilling or production unit, or exclude it altogether, provided that written notice thereof shall be given to Lessor promptly. As to each drilling or production unit designated by the Lessee, the Lessor agrees to accept and shall receive from such a unit such proportion of the royalties specified herein as the number of surveyed acres out of the lands covered by this lease which may be included from time to time in any such unit, bears to the total number of acres included in such unit as determined by land survey. The commencement, drilling, completion of, or production from a well or any portion of a unit created under the terms of this paragraph shall have the same effect upon the terms of this lease as if a well were commenced, drilled, completed, or producing on the land described herein. In the event, however, that a portion only of the land described in this lease is included from time to time in such a unit, then a proportionate part of the delay rental reserved shall be paid on the remaining acreage.

In Consideration of the Premises, if petroleum oil is found and saved, the Lessee shall yield and give to the Lessor the one-eighth (1/8) part or share of the same, delivered free of charge into the pipe lines and tanks of the company transporting and storing the oil produced from said land.

If the Lessee chooses to make this leasehold a part of an oil repressuring unit and surplus gas is marketed from that unit, then any payment for gas marketed shall be divided pro rata among the various Lessors in such unit in accordance with Lessor's acreage to the total unit acreage as hereinbefore set forth in this lease; provided, however, that if Lessee produces or purchases gas outside of the unit and uses it in repressuring, then Lessee shall pay for gas marketed only to the extent that it exceeds the outside gas produced or purchased. The Lessee may use gas produced from said premises without charge therefor for injection and repressuring of wells on said premises and on adjacent premises, and for said purposes may commingle said gas with gas produced elsewhere.

And it is Further Agreed that the Lessee shall pay to the Lessor for each and every well drilled upon said land which produces gas which is marketed by Lessee, a money royalty computed at the rate of one-eighth (1/8) of the wholesale market value which is based on the average current price paid by the Lessee to independent operators in the general area, computed at a 10-ounce pressure basis above 14.7 lbs. atmospheric pressure according to Boyle's Law for the measurement of gas at varying pressures, but without allowance for temperature and barometric conditions, payment to be made on or before the 25th day of the month following that in which the gas has been delivered into the marketing pipe line, and continuing until the Lessee shall give written notice to the proper owners, or by posting at the well of Lessee's intention to abandon the well, or shall in fact plug and abandon same. Said payment to be subject however to the Lessor's agreement hereinabove contained for unitization and acceptance for such proportion of said royalty to which he may be entitled. The time and method of marketing gas produced from any well or wells on the leased premises, or on a drilling or production unit, and the amount thereof that shall be used or marketed within any period of time shall be entirely at the discretion of the Lessee. The full consideration for any well used in connection with the storage of gas under said land shall be a money royalty computed at the rate of Three Hundred Dollars per annum, payable annually in advance, during the period in which said well is used for storage of gas or as an observation well in the general vicinity of an operated storage reservoir. The full consideration for any well used as an injection well shall be a money royalty computed at the rate of One Hundred Dollars per annum, payable annually in advance, which will be divided pro rata as hereinbefore set forth if Lessor's acreage is unitized; in accordance with the terms of this lease.

Unless a well is previously completed upon said land or on other land with which said land is pooled or unitized, the Lessee shall, beginning on the 1st day of JUNE, 1982, and continuing until a well is completed, or this lease is surrendered, or this lease is used for the storage of gas or the protection of gas storage on lands in the general vicinity of said land, pay to the Lessor, annually in advance, the sum of One thousand Fifty and No/100 (\$1,050.00) Dollars as a carrying rent, in lieu of development, on the entire acreage for the twelve months following the date of said payment, said sum being at the rate of Five (5) Dollars per acre per annum. It is agreed that the Lessee may drill or not drill on the leased premises as it may elect. EWB CWH KM JH E.M.M. M.E.S. J.R.B.

When said land is used for the storage of gas (but there is no well on said land) or for the protection of gas storage on lands in the general vicinity, the Lessee covenants and agrees to pay to the Lessor, annually in advance, an annual storage rent of Five (5) Dollars, said sum being at the rate of Three Dollars per acre per annum until a well is completed or this lease is surrendered.

Any rent paid for time beyond the date of completion of a well, or the utilization of a well for the storage of gas, shall be credited upon the first royalty due upon same. VOL 660 PAGE 021

When all wells on said land are shut-in by Lessee for a continuous period of thirty (30) days or longer, the Lessee shall pay to the Lessor a royalty of One Thousand Fifty and 00/100 (\$1,050.00) Dollars annually, prorated on a monthly basis payable quarterly or at the end of such shut-in period, provided that a carrying rental is not being paid at that time.

All taxes levied on the severance or production of oil and gas hereunder shall be due and payable in the following proportions: One-eighth by Lessor and seven-eighths by Lessee.

And it is further agreed that the Lessee shall not be required in any event to increase the rate of said money royalty or rent, or said royalty of oil, by reason of any royalty rights or other interests in said gas or oil or said land, not owned by the Lessor, and if the Lessor does not have title to all of the gas or oil in said land (or does not have full title to such undivided interest in said land, or in the gas or oil therein, as may be stipulated above as the subject matter of this lease), there shall be refunded to the Lessee such part of all payments made by the Lessee hereunder as shall be proportionate to the outstanding title, and payments thereafter to be made by the Lessee to the Lessor shall be reduced in such same proportion. It is further agreed that the Lessee, at its option, may pay and discharge any taxes, mortgages, or other liens existing, levied or assessed on or against the land or gas and/or oil in place under the above-described lands; and, in the event it exercises such option, it shall be subrogated to the rights of any holder or holders thereof, and may reimburse itself by applying to the discharge of any such mortgage, tax, or other lien, any royalty or rentals accruing hereunder. The Lessee may assign this lease as to the whole or any part of the land covered hereby, and may surrender this lease as to the whole or any part of said land at any time it deems same unprofitable to hold or to operate, and the carrying rent shall be reduced proportionately to the land surrendered, provided that all rents or royalties due shall have been paid or tendered to the Lessor, and upon such surrender the Lessee shall be relieved from further payment of rents or royalties or the fulfillment of any other covenants herein with respect to the whole or such portion of said land so surrendered. Surrender of this lease may be made by delivering to the Lessor in person, or by mail, or by filing for record in the office for the recording of deeds in the county in which said land is situated, a proper Release of same duly acknowledged.

If at any time any well or wells drilled upon said land become so low in pressure or production that it or they are not profitable for the Lessee to operate, or the Lessee discontinues the use of any well or wells for the storage of gas, then the Lessee may abandon such well or wells and be released from the further payment of royalty upon same, it being understood, however, that in case all wells are abandoned, the Lessee may hold this lease until the expiration of the aforesaid stipulated period by paying the aforesaid carrying rent upon the acreage thereunder which is still unsundered.

It is further agreed that no wells shall be drilled within two hundred (200) feet of the principal buildings upon said land, except with the consent of the owner of such buildings; that all pipe lines laid, except those used to conduct gas and water to drilling wells, shall be buried; that the Lessee shall pay for all injury done to growing crops and fences in laying down, repairing and/or lifting all lines of pipe.

The Lessor shall retain full possession and control of said land for all purposes and uses not inconsistent or interfering with the aforesaid purposes and rights of the Lessee, and while gas is being produced from said land in an amount greater than the Lessee may need for drilling or operating thereon, the Lessor reserves the privilege, to be exercised following written notice to the Lessee and upon making his own connection at a well or at such other point as the Lessee may designate from time to time, of using for domestic purposes on said land not more than 250,000 cubic feet of such gas in any one year, computed from the date or anniversary thereof when such connection was first completed. In order to use such gas the Lessor shall also install and maintain at a location satisfactory to the Lessee a suitable regulator, or regulators, to reduce and control the pressure of gas to be metered to and used by the Lessor, and all such gas shall be taken and used at the Lessor's own risk and without liability on the part of the Lessee for any failure of the Lessor to obtain such gas on account of adverse weather conditions, the Lessee's use of pumping stations, breakage of lines, abandonment of wells or lines, or for other causes. The Lessee shall install and maintain a meter of standard make at a location satisfactory to the Lessee and provided by the Lessor, to measure any gas so used by the Lessor or other persons on said land. All gas used by the Lessor or any other persons on said land in excess of the aforesaid quantity in any one year as aforesaid, shall be deemed to be taken subject to the foregoing conditions and under the Lessee's current rules and regulations, and the Lessor covenants to pay or cause to be paid to the Lessee for same the latter's current domestic rate, in default of which payment promptly when due, the Lessee is hereby authorized to deduct the amount thereof from any royalty or other payments from time to time payable by the Lessee to the Lessor hereunder. ~~Lessor agrees to accept at any time, at the option of the Lessee, a cash payment of One Hundred and No/100 (\$100.00) Dollars per annum, payable annually in advance, in full consideration and in lieu of the limited use of the gas as reserved above by the Lessor.~~

M.E.S.
E.M.M.
K.M.
ENB
C.W.H.
J.L.H.
J.R.B.
W.D.
M.E.S.
K.M.
ENB
C.W.H.
J.L.H.
E.M.M.
J.R.B.

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Greene

ss. VOL 660 PAGE 223

On this, the 3rd day of MAY, 1982, before me Earl W. Beckett
the undersigned officer, personally appeared MARGARET E. Shoup, widow, Charles W. Hendler and
Virginia L. Hendler, his wife, Kelso Maley Jr. and EVA M. Maley, his
wife, Shirley K. Beyer, Married, (wife of Charles H. Beyer)
known to me (or satisfactorily proven) to be the person s whose name s ARE subscribed to the
within instrument, and acknowledged that they executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.
EARL W. BECKETT, Notary Public
Pittsburgh, Allegheny County, PA
My Commission expires August 4, 1984

Earl W. Beckett
Notary Public
Title of Officer

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF Greene

ss.

On this, the 4th day of MAY, 1982, before me Earl W. Beckett
the undersigned officer, personally appeared Charles H. Beyer, Married, (husband
of Shirley K. Beyer)

known to me (or satisfactorily proven) to be the person _____ whose name is subscribed to the
within instrument, and acknowledged that _____ he _____ executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.
EARL W. BECKETT, Notary Public
Pittsburgh, Allegheny County, PA
My Commission expires August 4, 1984

Earl W. Beckett
Notary Public
Title of Officer

(Pennsylvania Acknowledgment - Corporation)

COMMONWEALTH OF PENNSYLVANIA

ss.

COUNTY OF _____

On this, the _____ day of _____, 19____, before me _____,
the undersigned officer, personally appeared _____ of
who acknowledged himself to be _____
_____, a corporation, and that he as such _____
_____, being authorized to do so, executed the foregoing instrument for the purposes therein contained
by signing the name of the corporation by himself as _____

In witness whereof, I hereunto set my hand and official seal.

My Commission expires _____
Commonwealth of Pennsylvania)
County of Greene) ss.
Recorded on this 17th day of May, 1982
in the Recorder's office of said County in Book 660

Title of Officer

STATE OF WEST VIRGINIA

COUNTY OF _____

I, _____ of said County
of _____, do certify that _____

signed to the writing hereto annexed bearing date the _____ day of _____, 19____,
ha _____ this day acknowledged the same before me, in my said County.

Given under my hand and _____ seal, this _____ day of _____, 19____.

My Commission expires _____

Notary Public

RECORDED
OFFICE
MAY 17 AM 1982

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