

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

Public Meeting held April 24, 2025

Commissioners Present:

Stephen M. DeFrank, Chairman, Statement  
Kimberly Barrow, Vice Chair  
Kathryn L. Zerfuss  
John F. Coleman, Jr.  
Ralph V. Yanora

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement

M-2023-3019782

v.

Mifflin Energy Corp.

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a proposed Joint Petition for Approval of Settlement (Settlement, Settlement Agreement, or Petition), filed on June 26, 2023, by the Commission's Bureau of Investigation and Enforcement (I&E) and Mifflin Energy Corp. (Mifflin Energy or the Company) (collectively, the Parties), with respect to an informal investigation conducted by I&E. Both Parties filed Statements in Support of the Settlement. The Parties submit that the proposed Settlement is in the public interest and

is consistent with the Commission’s Policy Statement at 52 Pa. Code § 69.1201, *Factors and Standards for Evaluating Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations* (alternatively, the *Rosi* factors). Petition at 13.

By Order entered September 21, 2023 (*September 2023 Order*), we provided interested parties with the opportunity to file comments on the Settlement. Accordingly, also before the Commission for consideration and disposition are the comments of the Office of Consumer Advocate (OCA), Pennsylvania Independent Oil and Gas Association (PIOGA), I&E, and the Pennsylvania Grade Crude Oil Coalition (PGCC).

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

## **I. History of the Proceeding**

### **A. I&E Investigation**

This matter concerns a natural gas explosion that occurred on April 9, 2020, in Waynesburg, Green County, Pennsylvania (Incident).<sup>1</sup> Petition at 1. The Incident resulted in the destruction of a residence and second degree burns to the female

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<sup>1</sup> It is important to note that since I&E’s investigation into the Incident, Mifflin Energy’s operating assets have been sold to a new owner, Mifflin Energy Resources, LLC, which has no affiliation to Mifflin Energy or relationship to Mifflin Energy’s owners. Mifflin Energy continues to exist and owns royalty interests in wells other than the ones it previously owned, but no longer owns or operates what was determined by I&E at the time of the Incident to be facilities subject to the Commission’s jurisdiction (“jurisdictional facilities”). Nevertheless, the new owner will be responsible to identify, register and operate jurisdictional assets, if any, in accordance with applicable state and federal regulations.

homeowner. Pipeline Safety Inspectors from I&E's Safety Division responded to the scene on the day of the Incident and initiated an investigation. *Id.* at 7.

Thereafter, the Parties entered into settlement negotiations and agreed to resolve the matter in accordance with the Commission's policy to promote settlements at 52 Pa. Code § 5.231 (a). Petition at 10. As previously indicated, the Parties filed the instant Settlement on June 26, 2023.

On September 21, 2023, Chairman Stephen M. DeFrank (Chairman DeFrank) and Vice Chair Kimberly Barrow (Vice Chair Barrow) each issued Statements on the matter. Chairman DeFrank's Statement discussed the sale of the subject assets to a new owner and asked who would be responsible for any remedial measures as the Commission is obligated to ensure that all necessary remedial measures are taken to ensure safety. *See* Chairman DeFrank Statement. Vice Chair Barrow's Statement reminded the new owners of its obligation to ensure the facilities are safely managed and asked the new owners to conduct a comprehensive review of the system to prevent further dangerous conditions. *See* Vice Chair Barrow Statement.

As noted, by the *September 2023 Order*, we directed that notice of the Order and the proposed Settlement be published in the *Pennsylvania Bulletin*, to provide an opportunity for interested parties to file comments with the Commission regarding the Settlement within twenty-five days after the date of publication.

On October 7, 2023, the *September 2023 Order*, along with the Settlement and Statements in Support, were published in the *Pennsylvania Bulletin*, 53 Pa.B. 6346, (October 7, 2023). In accordance with the *September 2023 Order*, comments on the proposed Settlement were due on or before November 1, 2023 (*i.e.*, twenty-five days after the *September 2023 Order* was published). On November 1, 2023, the OCA and

PIOGA<sup>2</sup> filed Comments. Reply Comments were filed by I&E on November 3, 2023. On November 7, 2023, Comments were filed by PGCC, Reply Comments were filed by PIOGA, and Supplemental Reply Comments were filed by I&E.

On November 7, 2023, I&E filed its Motion to Strike the Untimely-Filed Comments of PGCC (Motion). On November 8, 2023, PGCC filed its Answer to I&E's Motion.

On February 3, 2025, Mifflin Energy filed a letter indicating that the Pipeline and Hazardous Material Safety Administration (PHMSA) had issued its Declaratory Order on January 13, 2025 and provided a copy of the PHMSA Order.

#### **B. Pipeline and Hazardous Materials Safety Administration (PHMSA) Petition**

On March 20, 2023, Mifflin Energy filed a Petition for Declaratory Order (PHMSA Petition) with PHMSA requesting that PHMSA issue an order declaring that: (1) customer piping is not subject to the safety standards in 49 C.F.R. § 192 (Part 192); and, (2) that the owner or operator of a non-jurisdictional production or gathering line that delivers gas directly to customer piping, pursuant to the terms of what is more commonly known as a “free gas” or “farm tap” agreement, is not responsible for ensuring that the customer's piping complies with the safety standards in Part 192. Additionally,

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<sup>2</sup> A Secretarial Letter was issued on November 6, 2023, indicating that the *September 2023 Order* was published in the *Pennsylvania Bulletin* on October 7, 2023 and seeking comments to be filed within 25 days of the Bulletin's publication. *November 2023 Secretarial Letter*. The Secretarial Letter stated that Comments were filed by PIOGA on November 1, 2023 but that PIOGA failed to serve the Parties of Record and did not include a Certificate of Service in accordance with 52 Pa. Code § 1.54. As a result, the Secretarial Letter, in an effort to ensure due process, served a copy of PIOGA's Comments electronically on the Parties of Record. Furthermore, the Secretarial Letter allowed supplemental comments replying to PIOGA's Comments to be filed by November 8, 2023. *See Id.*

Mifflin requested that PHMSA rescind its Letter of Interpretation issued to I&E. PHMSA Petition at 1.

On November 9, 2023, PHMSA announced in the *Federal Register* that it was seeking Comments on Mifflin Energy's Petition and assigned the matter Docket Number PHMSA-2023-0080. *See* 88 *Fed. Reg.* 216, 77244 (November 9, 2023). Comments were filed by PIOGA in support of Mifflin Energy's Petition. Letters of Support of Mifflin Energy's Petition were filed by Gas & Oil Association of West Virginia, Inc. and the Trade Association (Marcellus Shale Coalition, Ohio Oil and Gas Association, and GPA Midstream Association).

## II. Background

Mifflin Energy owned and operated a gas well (Shoup # 4)<sup>3</sup> located on a 210-acre parcel leased to Mifflin Energy including 2 properties in Waynesburg, Green County, Pennsylvania. Prior to, and at the time of the Incident, gas from the well was available to both previously designated properties. The residence destroyed in the Incident was constructed prior to 2005 when Mifflin Energy acquired the production and gathering facilities in the surrounding area, according to Mifflin Energy. *Id.* It is unknown whether the owners of the residence were aware of the fact that the home was close in proximity to the service line that conveyed gas from Mifflin Energy's production facilities to the other property in Waynesburg (remaining property). Petition at 5.

At the well head, Shoup #4 operates at 400 pounds per square inch gauge (psig). A Mifflin Energy pressure regulator reduces the pressure to 9 psig before it

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<sup>3</sup> Shoup #4 is one of four wells formerly owned and operated by Mifflin Energy on the Shoup Lease. The Shoup Lease is a 210-acre natural gas and oil lease in Washington Township, Pennsylvania, which was entered into on May 3, 1982, by Margaret E. Shoup and her family, and Kepco, Inc. Mifflin Energy purchased the wells on the Shoup Lease in July of 2005. Petition at 5, n.2.

enters a 2-inch production line. The I&E Safety Division's investigation described the relevant facilities as a tap, located at the address of the residence destroyed in the Incident, with a "T" and two shut-off valves, one on each side of the tap. One side of the tap serves the address of the residence destroyed in the Incident and the other side has a consumer-owned pipe running to the remaining property. Petition at 5-6.

The meter and regulator for the service line to the address of the residence destroyed in the Incident are immediately adjacent to the tap which is also immediately adjacent to the meter and regulator for the consumer-owned service line to the remaining property prior to March 2020. However, less than one month prior to the Incident, the meter and regulator for the remaining property were relocated by the homeowners further downstream. Petition at 6.

The owner of the remaining property contacted a Mifflin Energy representative, on or about March 28, 2020, requesting permission to relocate the meter and pressure regulator closer to the residence at the remaining property. Mifflin Energy granted the homeowner's request. Mifflin Energy did not require a pressure test of the service line serving the remaining property and Mifflin Energy does not have a written record of the work performed related to the relocation of the meter and regulator. The suspected cause of the Incident was a gas leak occurring on the service line to the remaining property between the Mifflin Energy tap and the relocated meter and regulator. Petition at 6-7.

Prior to the Incident, Mifflin Energy's pipeline facilities were not registered with the Commission or PHMSA. I&E's Safety Division became aware of Mifflin Energy's pipeline facilities during its investigation of the Incident. Petition at 6.

I&E's Safety Division's findings indicate that the suspected cause of the Incident was a leak on the service line, which delivered natural gas to the home and the

other property, connected to piping that Mifflin Energy considers to be a production line where gas was supplied from a Company well. The gas leak led to the Incident explosion that destroyed the residence and injured the female homeowner, resulting in second degree burns. Petition at 7.

I&E's Safety Division discovered that Mifflin Energy, pursuant to the requirements of the lease, made available to lease holders in Greene County natural gas supplied by its wells. Further, it was found that Mifflin Energy did not odorize its gas, did not hold an Operator Identification Number from PHMSA, and was not registered with the Commission. Petition at 7.

I&E Safety Division's investigation found that relocation of the meter to 169 Water Dam Road affected treatment of the service line rendering it to be a jurisdictional "service line" subject to pipeline safety regulations.<sup>4</sup> Petition at 8. As part of its Investigation, I&E contacted PHMSA to obtain an interpretation on whether any of the facilities involved in the Incident constituted a PUC "jurisdictional" service line. Petition at 8; Attachment 1. PHMSA, in a letter response (Letter of Interpretation), determined that Mifflin Energy was a PUC jurisdictional pipeline operator, as it was engaged in the transportation of gas and that the terms of the private lease agreement between Mifflin Energy and the residents of the remaining property did not eliminate Mifflin Energy's responsibility as a pipeline operator for pipeline safety. Petition at 8. Further, PHMSA determined that, based on the facts and circumstances presented by

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<sup>4</sup> 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 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.

I&E, the jurisdictional service line began at the shut-off valve and ended at the outlet of the meter serving the remaining property.

I&E's position is that the segment of pipeline that experienced the failure was a jurisdictional service line and that Mifflin Energy was responsible for the operation and maintenance of the service line up to the outlet of the customer's meter at the meter's new location, pursuant to 58 P.S. § 801.302. Petition at 8; Attachment 2.

Mifflin Energy was unaware of I&E's submission to PHMSA for interpretation on whether any of the facilities involved in the Incident constituted a PUC "jurisdictional" service line. Shortly after learning of I&E's submission and PHMSA's interpretation, Mifflin Energy submitted its Petition for Declaratory Order to PHMSA. Petition at 8; Attachment 3.

It is I&E's position that moving the meter away from the tap and adjacent to the home at the remaining property transformed the nature of the service line to jurisdictional with jurisdiction ending at the outlet of the relocated consumer meter pursuant to 49 CFR § 192.3. Once the meter was relocated, it is I&E's position that Mifflin Energy became responsible for complying with the Gas and Hazardous Liquids Pipelines Act, 58 P.S. §§ 801.101-801.1101 (Act 127) and applicable federal pipeline safety regulations. Petition at 9. Mifflin Energy disagrees with I&E's position. *Id.*

If this matter had been fully litigated, I&E would have proffered evidence and legal arguments to demonstrate that Mifflin Energy, *inter alia*, committed multiple violations related to Act 127 and the adoption of federal pipeline safety laws including, but not limited to: failure to file an annual report; failure to pay assessment; and failure to adhere to various technical duties and responsibilities of jurisdictional pipeline operators. Petition at 9.

### **III. Terms and Conditions of the Settlement**

The Parties submit that the Settlement Agreement is in the public interest because it effectively addresses I&E's allegations that are the subject of the I&E informal investigation and avoids the time and expense of litigation. Both Parties jointly acknowledge that approval of the Settlement Agreement is in the public interest and is fully consistent with the Commission's Policy Statement at 52 Pa. Code § 69.1201. Petition at 16.

The Settlement consists of the Joint Petition for Approval of Settlement containing the terms and conditions of the Settlement including four Attachments, Proposed Ordering Paragraphs (Appendix A to the Petition) and the respective Statements in Support of the Settlement of I&E (Appendix B to the Petition) and Mifflin Energy (Appendix C to the Petition), filed on June 26, 2023.

Pages 12-13 of the Settlement Agreement set forth the full Settlement Terms and Conditions.

The essential terms of the Joint Settlement are set forth in Paragraph No. 41 of the Petition, which is recited in full, below, as it appears in the Petition:

41. I&E and Mifflin Energy, intending to be legally bound and for consideration given and received, desire to fully and finally conclude this investigation and agree that a Commission Order approving the Joint Petition without modification shall create the following rights and obligations:

- a) Mifflin Energy shall pay a civil penalty in the amount of One Hundred Thousand Dollars (\$100,000) pursuant to 58 P.S. § 801.502 and 52 Pa. Code § 69.1201. Said payment shall be made within thirty (30) days of the

Commission's Final Order (not subject to pending appeal or other legal challenge) approving any Settlement Agreement in this matter and shall be made by certified check or money order payable to the "Commonwealth of Pennsylvania." The docket number of this proceeding shall be indicated with the certified check or money order and the payment shall be sent to:

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

- b) Mifflin Energy agrees that the civil penalty shall not be tax deductible pursuant to Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. §162(f).
- c) Since Mifflin Energy has sold its operational assets to a new owner that has no affiliation with Mifflin Energy, the Parties agree that the remedial measures that would otherwise be sought and potentially imposed upon Mifflin Energy, are no longer applicable to Mifflin Energy, as the sale of these assets relinquishes Mifflin Energy from falling within the definition of a pipeline operator and, accordingly, Act 127's pipeline operator requirements are no longer applicable to Mifflin Energy.
- d) Upon Commission entry of a Final Order (not subject to pending appeal or other legal challenge) approving the Settlement Agreement in its entirety without modification, I&E acknowledges and confirms that Mifflin Energy is and will be released from all past or future claims that were made or could have been made by I&E and/or the Commission for monetary and/or other relief based on allegations that the

Company failed to comply with the requirements of the Code, the Act, and any other state or federal regulations addressing gas pipeline safety.

- e) I&E acknowledges and confirms that Mifflin Energy, given its prior sale of its physical assets and its participation in this Settlement Agreement with respect to the Incident, has no prospective obligations as a pipeline operator under state or federal law with respect to any pipeline or related facilities involved in the Incident.
  
- f) I&E and Mifflin Energy jointly acknowledge that approval of this Settlement Agreement is in the public interest and fully consistent with the Commission's Policy Statement regarding Factors and Standards for Evaluating Litigated and Settled Proceedings, 52 Pa. Code § 69.1201. The Parties submit that the Settlement Agreement is in the public interest because it effectively addresses I&E's allegations that are the subject of the I&E informal investigation, and avoids the time and expense of litigation, which entails hearings, travel for I&E and Mifflin Energy's witnesses, and the preparation and filing of briefs, exceptions, replies to exceptions, as well as possible appeals. Attached as Appendix B and Appendix C are Statements in Support submitted by I&E and Mifflin Energy, respectively, setting forth the bases upon which they believe the Settlement Agreement is in the public interest.

Settlement Agreement at ¶ 41.

#### IV. Discussion

The focus of inquiry for determining whether a proposed settlement should be recommended for approval is not a “burden of proof” standard, as is utilized for contested matters. *Pa. PUC, et al. v. City of Lancaster - Bureau of Water*, Docket Nos. R-2010-2179103, *et al.* (Order entered July 14, 2011). Rather, the benchmark for determining the acceptability of the proposed Settlement is whether the proposed terms and conditions are in the public interest. *Id.* (citing *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Order entered April 1, 1996); *Pa. PUC v. C.S. Water and Sewer Associates*, 74 Pa. P.U.C. 767 (1991)).

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

Furthermore, consistent with the Commission’s policy to promote settlements, we have promulgated a Policy Statement at 52 Pa. Code § 69.1201 (*i.e.*, the *Rosi* factors), which sets forth ten factors that we may consider in evaluating whether a civil penalty for violating a Commission Order, Regulation, or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and approval of a proposed settlement agreement is in the public interest. The Commission will not apply the factors as strictly in settled cases as in litigated cases. 52 Pa. Code § 69.1201(b). While many of the same factors may still be considered, in settled cases, the parties “will be afforded flexibility in reaching amicable resolutions to complaints and other matters as long as the settlement is in the public interest.” *Id.* The Policy Statement sets forth the guidelines we use when determining whether, and to what extent, a civil penalty is warranted. Based on our review of the Settlement terms and conditions, and applying the relevant

factors in this case, we find that the Settlement should be approved consistent with this Opinion and Order.

**A. Comments, Reply Comments, and Supplemental Comments Filed in Response to the *September 2023 Order***

As previously noted, the Commission received comments from the OCA, PIOGA, I&E, and PGCC in response to our *September 2023 Order* issuing the proposed Settlement for comment. A summary of the Comments, Reply Comments, and Supplemental Comments are below.

**1. The OCA's Comments**

In its Comments, the OCA supports the Commission's approval of the Settlement as being in the public interest because it promotes operator compliance with pipeline safety requirements. OCA Comments at 2. The OCA points out that the relocation of the service line called jurisdiction into question before PHMSA. *Id.* at 2-3. The OCA submits that if PHMSA resolves the question consistent with its September 21, 2021 Letter of Interpretation, the Commission's adoption of the instant Settlement will not only promote pipeline operator due diligence with safety requirements but will also allow for more accurate communications by operators to farm tap customers. *Id.* at 3.

The OCA points out that consumers benefit when pipeline operators fully comply with safety requirements. OCA Comments at 3. The OCA asserts that damage to property and persons due to avoidable gas explosions harms the public health and safety of the Commonwealth. *Id.* Furthermore, it is the OCA's position that consumers benefit where pipeline operators communicate with accurate information relating to

pipeline safety regardless of any existing contractual arrangements that may not require the same. *Id.* at 3-4.

The OCA theorizes that there are several unresolved issues that are outside the control of the Commission before a definitive determination of responsibility for the service line can occur. OCA Comments at 4. The OCA submits that if PHMSA were to resolve the jurisdiction question consistent with its September 21, 2021 Letter of Interpretation and the new owners leave the service line where it was at the time of the Incident, the Commission could conclude that the new owner would be responsible for Part 192 compliance going forward. *Id.*

Finally, the OCA addresses the gap in safety regulation that impacts safety for farm tap consumers. The OCA states that the surge of development and use of shale gas in the Commonwealth signifies the importance of farm tap safety. The OCA asserts that it is crucial for pipeline safety requirements to take into account all types of farm tap configurations so that consumers of farm taps have adequate notice of their obligations to maintain and repair their lines as well as to periodically inspect for leaks. OCA Comments at 5.

As Pennsylvania is a certified state under Federal pipeline safety laws, the OCA asks the Commission to do the following:

- (1) Encourage PHMSA to amend its regulations to extend the customer notification requirements of 49 CFR Section 192.16 to operators of Class 1 transmission lines and Types C and R gathering lines where there is a farm tap. Moreover, the notification requirement of Section 192.16 should be bolstered to require written notice be provided at least annually to farm tap customers rather than only once. Residential consumers especially would benefit from more regular

notification to account for, inter alia, the possibility of a change in home ownership.

- (2) Encourage the General Assembly to amend Act 127 to give the Commission the fullest extent of its authority under federal pipeline safety laws to promulgate safety regulations. Federal law expressly permits a certified state to adopt additional or more stringent standards than the federal standards for gas and hazardous liquids operators, provided those standards are compatible with the federal standards. However, Act 127 limits the Commission's authority over non-utility gas and hazardous liquids operators by not allowing the Commission to adopt additional or more stringent standards than the federal standards. Given the Commonwealth's unique position within the shale gas production, the Commission should be able to exercise its safety authority over non-utility pipeline operators and pipeline facilities to the fullest extent possible in order to address the safety needs of Pennsylvanians.

OCA Comments at 6.

Ultimately, the OCA supports the Commission's approval of the Settlement as being in the public interest because it promotes operator compliance with pipeline safety requirements. Furthermore, the OCA requests that the Commission proactively seek the changes mentioned above. OCA Comments at 7.

## **2. PIOGA's Comments**

In its Comments, PIOGA requests that the Commission reject the proposed Settlement because the facts and law clearly show that the Incident involved facilities and pipelines not subject to PHMSA jurisdiction and the Commission's jurisdiction under Act 127 of 2012. PIOGA Comments at 1-2. PIOGA further requests that the Commission provide clear direction to I&E staff, producers, and the public as to the

statutory limitation of its jurisdiction under Act 127 concerning production operations and consumer-owned piping by rejecting the proposed Settlement. *Id.*

First, PIOGA argues that the facilities and pipelines involved in the Incident are non-jurisdictional to PHMSA and the Commission. PIOGA Comments at 2. While PIOGA understands the Commission's desire to do everything possible to prevent such incidents, it contends that the Commission and PHMSA are constrained by the federal pipeline safety laws. *Id.* at 2-3. PIOGA explains that under federal pipeline safety laws, PHMSA and the Commission have no jurisdiction and authority over production operations and consumer-owned piping. *Id.* at 3. PIOGA asserts, that under the facts presented in this matter, the consumer's movement of the consumer's pressure regulator and Mifflin Energy's meter cannot, as a matter of fact and law, cause Mifflin Energy to become an "operator" responsible for compliance with the requirements of Act 127. *Id.* PIOGA contends that neither the producer nor the consumer are, or were at any time, involved in the "transportation of gas" which is an absolute jurisdictional predicate for regulation under the federal pipeline safety laws and Act 127. *Id.* at 3-4.

PIOGA also asserts that there is no dispute that this matter involves only consumer-owned piping and not a "service line" as described by I&E and the Settlement. PIOGA Comments at 4. PIOGA contends that here, words matter, especially when it is a defined term that determines the ultimate legal issue presented. *Id.* at 5. PIOGA lists every reference to the term "service line" in the Settlement Petition. *Id.* at 5-6. PIOGA submits that all references to "service line" must be changed to "consumer-owned piping" to be factually correct and to provide a better understanding of who is responsible for any remedial measures. *Id.* at 6.

Next, PIOGA notes that 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. PIOGA contends that neither the producers supplying the gas nor the consumers using the gas are “operators” under Act 127. PIOGA Comments at 7.

PIOGA avers that PHMSA’s Proposed FAQs and answers as well as staff interpretation letters, such as the one I&E relied upon in this matter, are not regulations and do not create legally enforceable rights or obligations. PIOGA Comments at 8.

PIOGA also argues that I&E failed to understand that the significance of the exclusion of production operations and pipelines from the scope of the federal pipeline safety laws stems from the Commission’s failure to address PIOGA’s request in its comments to the January 12, 2012 Tentative Implementation Order in the proceeding in *Act 127 of 2011 – The Gas and Hazardous Liquids Pipeline Act; Assessment of Pipeline Operators*, Docket No. M-2012-2282031.<sup>5</sup> PIOGA Comments at 9 (citing *2012 Final Implementation Order* at 3). PIOGA insists that the Commission’s failure to address PIOGA’s request to confirm the Commission’s scope of jurisdiction under Act 127 in regard to production pipelines did not provide clear direction to I&E staff, producers, and the public. PIOGA Comments at 9.

Next, PIOGA states that I&E’s basis for the Commission’s jurisdiction and authority over Mifflin Energy was the consumer-owner’s relocation of the pressure regulator and Mifflin Energy meter closer to the consumer’s home, yet there was no mention of an I&E investigation on who performed the work. PIOGA Comments at 10. PIOGA explains that according to I&E’s description of the facilities involved, I&E concedes that prior to the relocation work being done, the pipeline was consumer-owned

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<sup>5</sup> The Commission entered its Final Implementation Order in that Proceeding (*2012 Final Implementation Order*) on February 17, 2012.

pipng for which Mifflin Energy had no maintenance or testing responsibility per the Shoup Lease. *Id.* at 10-11. Furthermore, PIOGA contends that I&E’s assertions in the Settlement regarding other alleged violations of Act 127 and federal pipelines safety regulations along with its contention that the proposed civil penalty amount is fair and equitable is illogical in view of I&E’s conclusion that Mifflin Energy became an operator “unwittingly” and without evidence that Mifflin Energy had any role in performing the relocation work. *Id.* at 11.

Finally, it is PIOGA’s position that it is the responsibility of the consumer, not the producer, for the Incident and any remedial measures required in this matter. PIOGA asserts that the remedy in this matter is simply beyond the Commission’s and PHMSA’s jurisdiction. PIOGA Comments at 11.

### **3. PGCC’s Comments**

In its Comments, PGCC explains that it is comprised of members that produce natural gas and that many of PGCC’s members operate oil and gas leases with production line farm tap provisions similar to the farm tap provision contained in the Shoup lease relative to the Incident. PGCC Comments at 1. PGCC states that it agreed with the substance contained within PIOGA’s Comments and did not find it necessary to submit additional Comments. *Id.* However, PGCC notes that on November 3, 2023, I&E filed its Reply Comments, wherein the first paragraph states, “The facilities involved in the Incident had been owned and operated by Mifflin Energy **at the time of the Incident...**” to which PGCC now files its response to I&E’s first paragraph. PGCC Comments at 1 (emphasis in original) (citing I&E Reply Comments at 1). PGCC contends that I&E’s statement attributing ownership of the facilities to Mifflin Energy in its Reply Comments conflicts with I&E’s own description of its investigation within I&E’s letter to PHMSA. PGCC Comments at 1.

PGCC asserts that I&E failed to acknowledge the description that I&E previously assigned to the facts of the Incident as well as the underlying facts elsewhere in the record. PGCC explains that a proper understanding of the facilities in question, including their use, ownership, control, etc. is not an irrelevant matter and that instead, this understanding is germane to the central matter of jurisdiction and the responsibilities that would flow from jurisdiction. PGCC Comments at 2.

PGCC contends that some of its members have been in the business of natural gas production for over one hundred years and the arrangement of farm taps has been common practice and an integral part of the production process. PGCC states that among its members, there are thousands of farm taps that operate under a lease very similar to the Shoup Lease. PGCC argues that the erroneous characterization made by I&E in its Reply Comments will have a serious and significant impact upon PGCC members if the characterization is relied upon. PGCC Comments at 2.

#### **4. Reply Comments**

##### **a. I&E's Reply Comments**

In its Reply Comments, filed on November 3, 2023, I&E responds to the Statements of Chairman DeFrank and Vice Chair Barrow and to the OCA's Comments. I&E Reply Comments at 2-3.

First, I&E explains that its investigation concluded that the relocation of the meter closer to the customer's residence triggered the application of the pipeline operator's compliance with applicable federal regulations. I&E asserts that in the interest of amicably resolving the investigation against it, Mifflin Energy entered into the instant Settlement. I&E states that the voluntary Settlement between I&E and Mifflin Energy, which is separate and apart from any determination to be made at the state or federal level

regarding the jurisdictional nature of farm taps, is in the public interest and the Commission should approve it in its entirety. I&E Reply Comments at 3.

I&E recognizes the safety concerns raised by the Statements of Chairman DeFrank and Vice Chair Barrow and indicates that the concerns are separate and apart from the instant Settlement and should not be a means to justify a modification or rejection of the Settlement. I&E Reply Comments at 3. I&E references the Joint Petition where it recognized a separate, ongoing responsibility of the new facilities owner. *Id.* at 3-4. Additionally, I&E states that in order to proactively respond to the concerns of Chairman DeFrank and Vice Chair Barrow, I&E Safety Engineers scheduled a meeting with the owner of Mifflin Energy Resources, the current owner of the facilities. *Id.* at 4. The purpose of the meeting, I&E explains, was to determine which, if any, assets are jurisdictional. *Id.* According to I&E, during the field inspection, I&E Safety Engineers confirmed that the service line for the remaining property had been disconnected near the tap off the Mifflin Energy Resources Pipeline. *Id.* at 5. Furthermore, I&E states that I&E Safety Engineers found that the system *does* have jurisdictional farm taps based upon the PHMSA Interpretation Letter that I&E sought from PHMSA. *Id.*

In support of the Settlement, I&E points to the unique circumstances of this matter where Mifflin Energy, due to the sale of its operational assets and participation in the Settlement Agreement, has no prospective obligations as a pipeline operator under state or federal law with respect to any pipeline or related facilities involved in the Incident. I&E Reply Comments at 5-6. Further, I&E contends that it has addressed its proactive response to the concerns raised by the Chairman and Vice Chair regarding the safety of facilities and responsibility of the new facilities owner going forward. *Id.* at 6.

I&E contends that the Settlement Agreement reflects a balanced compromise of the interests of the Parties in this proceeding. I&E Reply Comments at 6.

I&E stresses that whether the new owner, Mifflin Energy Resources, is responsible for any remedial measures requires a PHMSA ruling and is separate and apart from this Settlement Agreement. Accordingly, I&E claims that the approval of the Settlement is in the public interest. *Id.*

**b. I&E's Supplemental Reply Comments**

I&E's Supplemental Reply Comments address PIOGA's Comments, wherein PIOGA has asserted that the Incident is non-jurisdictional. I&E agrees with PIOGA that many legal questions remain unanswered regarding Commission jurisdiction pursuant to PHMSA's interpretations when it comes to pipeline operators, farm taps, and related facilities. I&E Supplemental Reply Comments at 2. I&E again argues that this is not the appropriate forum for PIOGA's Comments on jurisdiction. *Id.* I&E asserts that the instant Settlement operates separate and apart from any determination to be made at the state or federal level regarding the jurisdictional nature of farm taps and related pipeline facilities. *Id.* at 3.

I&E states that PIOGA's arguments in its Comments are better suited in the context of a response to the Mifflin Energy Petition for Declaratory Order at PHMSA, rather than at the instant docket. I&E Supplemental Reply Comments at 4. According to I&E, PIOGA's Comments, while vitally important, are not a barrier to approval of the instant Settlement. *Id.* at 5.

Ultimately, I&E contends that approval of the instant Settlement has no bearing on the pressing legal issues that remain to be addressed by PHMSA. I&E explains that there are no prospective remedies that apply to Mifflin Energy as it sold its operational assets to Mifflin Energy Resources, which removes Mifflin Energy from Act 127 jurisdiction going forward and from responsibility for any remedial measures. I&E supports the terms and conditions of the Settlement Agreement and requests that the

PIOGA Comments be dismissed as outside the focus of this Settlement Agreement. I&E Supplemental Reply Comments at 5.

**c. PIOGA's Reply Comments**

In its Reply Comments, PIOGA argues that its response should be considered by the Commission because I&E's Reply Comments misrepresent PIOGA's Comments and provide new, but incomplete, factual information concerning I&E's investigation. PIOGA Reply Comments at 2. First, PIOGA rejects I&E's assertion that the instant Settlement proceeding is not the appropriate forum for PIOGA's arguments. *Id.* at 3. PIOGA argues that the public interest is not served by requiring the payment of a \$100,000 civil penalty for alleged violations of law that are not determined. *Id.* PIOGA contends that a settlement like the one in this matter cannot be determined to be in the public interest without a clear Commission determination of the jurisdictional status of the facilities involved. *Id.* at 4.

PIOGA avers that the interpretation letter relied upon by I&E does not contain any new information or authority and is simply a restatement of prior non-regulatory positions available for many years. According to PIOGA, I&E should have known the answer to the threshold legal determination in this matter, but instead reached out to PHMSA for an opinion. PIOGA Reply Comments at 4.

Finally, PIOGA argues that I&E's Reply Comments, disclose a meeting between two I&E Safety Engineers, their Supervisor, and the owner of Mifflin Energy Resources to initiate a review of the Mifflin system to assist in determining which assets, if any, would be deemed jurisdictional under prevailing federal guidelines. PIOGA Reply Comments at 4. PIOGA takes issue with I&E's description of the meeting and claims that it is incomplete because no conclusions were communicated to the owner of Mifflin Energy during the inspections. *Id.* at 5. PIOGA avers that the implication of

I&E's statement is false and raises questions as to I&E's expertise concerning Act 127. *Id.*

## **5. I&E's Motion to Strike**

In its Motion to Strike, I&E argues that PGCC's Comments are untimely-filed and must be stricken. I&E Motion at 2. I&E explains that Comments were due November 1, 2023, pursuant to the Settlement Agreement's publication in the *Pennsylvania Bulletin*. *Id.* Furthermore, I&E references the *November 2023 Secretarial Letter* in which it stated that supplemental replies to PIOGA's Comments may be filed by November 8, 2023, and explains that the PGCC Comments filed on November 7, 2023 are not in reply to PIOGA's Comments and should be stricken. *Id.* at 3.

### **a. PGCC Answer to Motion to Strike**

In its Answer, PGCC states that its "sole purpose" of filing its Comments was to respond to the first paragraph in I&E's Reply Comments. PGCC Answer at 2. PGCC contends that its Comments were purposely narrow and that it did not comment on any matter other than its position that the I&E Reply Comments were inconsistent with the previous public record. *Id.* at 3. Specifically, PGCC explains that the determination of ownership of the line in question is a material determination and that I&E asserted a change of ownership in its Reply Comments. *Id.* at 4. PGCC avers that if I&E's Motion to Strike is granted, I&E will have successfully changed the public record in a material way. *Id.*

## **B. Disposition of I&E's Motion to Strike PGCC's Comments**

Upon review, we will grant I&E's Motion to Strike the Untimely-Filed Comments of PGCC. It is clear that the deadline for Comments in the instant proceeding

was November 1, 2023.<sup>6</sup> PGCC’s Comments were filed with the Commission on November 7, 2023, six (6) days past the November 1, 2023, deadline. However, due to PIOGA’s improper service of its Comments, the *November 2023 Secretarial Letter* was issued by the Commission to allow all parties “to file supplemental comments replying to PIOGA’s comments” by November 8, 2023. *See November 2023 Secretarial Letter*. In its Answer, PGCC states that the sole purpose of the Comments filed on November 7, 2023, was to respond to I&E’s Reply Comments. *See PGCC Answer at 2*. Due to PGCC’s Comments failing to meet the original deadline set forth by the *Pennsylvania Bulletin* and taking into account PGCC’s own admission that its Comments do not comport with the parameters made clear by the *November 2023 Secretarial Letter*, we shall grant I&E’s Motion and strike the PGCC Comments from the record.

We will also not consider the Reply Comments filed by PIOGA. As explained, *supra*, the *November 2023 Secretarial Letter* directed that only responses to PIOGA’s Comments could be filed at the docket by November 8, 2023. PIOGA’s Reply Comments address I&E’s Reply Comments. *See PIOGA Reply Comments, supra*. Additionally, the *November 2023 Secretarial Letter* was issued to remedy the service issue PIOGA created when it failed to serve its Comments on the Parties of Record. By considering PIOGA’s Reply Comments, it would unfairly prejudice I&E because it would allow PIOGA to respond to I&E based upon a correction to the record necessitated by PIOGA. Therefore, PIOGA’s Reply Comments will not be considered.

### **C. PHMSA Declaratory Order**

On February 3, 2025, Counsel for Mifflin Energy filed a letter and a copy of what appears to be a Declaratory Order (PHMSA Order) issued on January 13, 2025,

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<sup>6</sup> November 1, 2023 was 25 days after October 7, 2023, the date the Settlement Agreement was published in the *Pennsylvania Bulletin*.

by PHMSA in connection with Mifflin Energy's previously filed request for a Declaratory Order.<sup>7</sup>

In its Order, PHMSA explained that the obligation to comply with pipeline safety regulations rests with the owners and operators of pipelines. PHMSA Order at 27. PHMSA added that if an operator were to enter into a contractual agreement with another party relating to actions required by the pipeline safety regulations, the agreement would not relieve the operator of its responsibility under the law. *Id.* (referencing 49 CFR 195.10). According to PHMSA, Mifflin Energy's oil and gas lease did not relieve Mifflin Energy of the responsibility as a pipeline operator for compliance with the pipeline safety regulations applicable to the service line. Therefore, PHMSA determined that its 2021 Letter of Interpretation issued to I&E was correct. PHMSA Order at 27; 33.

PHMSA concluded that Mifflin Energy's Petition did not demonstrate that PHMSA should declare that customer piping is never subject to Part 192 or that the operator of an unregulated production or gathering line delivering gas to customer piping is never responsible for complying with Part 192. PHMSA Order at 29-30. First, based upon PHMSA's review of the regulations, their historical application, and considering the Petition and public comments, PHMSA confirmed that the pipeline safety regulations in Part 192 apply to service lines and that in certain configurations, the definition of a regulated service line at 49 C.F.R. § 192.3 includes customer piping if it is upstream of the customer meter. *Id.* at 33. Second, PHMSA stated it could not legally declare, as requested by Mifflin Energy, that an operator of an unregulated production or gathering line that delivers gas directly to customer piping pursuant to the terms of a free gas or

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<sup>7</sup> It is important to note certain ministerial discrepancies in the Declaratory Order attached to Mifflin Energy's letter. While issued as a Declaratory Order from PHMSA, the order was not published in the *Federal Register* and is identified without explanation, by Docket No. PHMSA-2024-0201, which is different from the docket number the Mifflin Energy Petition for Declaratory Order was assigned, *i.e.*, Docket No. PHMSA-2023-0080.

farm tap agreement is not required to comply with federal pipeline safety standards. *Id.* As PHMSA explained, such a declaration would be contrary to law. *Id.*

Additionally, PHMSA found that Mifflin Energy offered no valid reason for PHMSA to rescind its 2021 Letter of Interpretation and that the letter did not diverge from applicable regulations or prior PHMSA interpretations. PHMSA Order at 30. PHMSA determined that its letter correctly concluded that pursuant to 49 CFR § 192.3, the pipeline transporting gas to an individual customer from Mifflin Energy's production line was a service line and that it ended at the outlet of the relocated meter because the outlet of the meter was further downstream than the connection to the customer piping. *Id.* at 33. PHMSA stated its interpretation also correctly concluded that Mifflin Energy was the operator of the service line within the meaning of 49 CFR § 192.3 because Mifflin Energy was engaged in the transportation of natural gas via a regulated service line. *Id.* at 33-34. Ultimately, PHMSA denied Mifflin Energy's request to rescind the 2021 Letter of Interpretation and affirmed the letter as a correct application of the regulations. *Id.* at 34.

#### **D. Disposition of Comments**

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

Upon review of the Comments and the PHMSA Declaratory Order, we will approve the Settlement. We agree with the OCA that approval of the Settlement promotes operator compliance with pipeline safety requirements. It is important that

pipeline operators comply with safety requirements to prevent incidents such as the matter at hand. Furthermore, it is certainly in the public interest to ensure pipeline safety requirements are followed to protect the public health and safety of the Commonwealth from avoidable gas explosions.

PIOGA, in its Comments, requests that the Commission reject the Settlement and calls into question the Commission's jurisdiction. PIOGA primarily focuses on its assertion that the federal pipeline safety laws, PHMSA, and the Commission have no jurisdiction and authority over production operations and consumer-owned piping. *See* PIOGA Comments at 2-11. We disagree with PIOGA's position.

While not dispositive, we find the PHMSA Declaratory Order to be persuasive and weighing in favor of approval of the Settlement. During its Investigation, I&E relied upon PHMSA's 2021 Letter of Interpretation regarding Commission jurisdiction of Mifflin Energy. Mifflin Energy then petitioned PHMSA requesting the rescission of PHMSA's 2021 Letter of Interpretation and seeking an order declaring that customer piping is not subject to the federal gas pipeline safety standards and the owner or operator of an unregulated production or gathering line that delivers gas to customer piping pursuant to the terms of a farm tap agreement is not responsible for complying with the federal safety standards. As discussed, *supra*, in its Declaratory Order, PHMSA denied Mifflin Energy's Petition. PHMSA determined that its 2021 Letter of Interpretation was correct and declined to rescind its letter. PHMSA Order at 33. Furthermore, PHMSA was not persuaded by Mifflin Energy to conclude that customer piping is never subject to Part 192 or that the operator of an unregulated production gathering line delivering gas to customer piping is never responsible for complying with Part 192. *Id.*

In response to PHMSA's request for comments, PIOGA submitted Comments similar to those submitted in the instant matter. As part of its Order, PHMSA

responded to three arguments raised by PIOGA. First, PHMSA rejected PIOGA's contention that customer piping is not subject to Part 192 and that owners and operators of production and gathering lines are not legally responsible for ensuring that customer piping complies with the regulations in Part 192. PHMSA Order at 31. PHMSA explained that PIOGA's position is inconsistent with 49 CFR § 192.3 when applied to farm tap configurations where the operator of a transmission, distribution, gathering, or production line serves as a source of gas transported by a regulated service line to a customer meter downstream of the connection to customer piping. *Id.* PHMSA stated that in other configurations, when the customer meter is upstream of the connection to customer piping, or when there is no meter, the service line ends at the connection to customer piping. *Id.* at 32.

Next, PHMSA rejected PIOGA's position that producers do not engage in the transportation of gas and therefore are not an "operator" under the pipeline safety regulations. In its Order, PHMSA states that a company that primarily operates production pipelines, but that also operates a service line transporting gas to a customer, is engaged in the transportation of gas and therefore is responsible for complying with Part 192 requirements applicable to any service line. PHMSA Order at 32. According to PHMSA, any person who is engaged in the transportation of gas must comply with the applicable pipeline safety regulations. *Id.* (citing 49 U.S.C. 60118(a); 49 CFR 192.13(a)).

Finally, in response to PIOGA's contention that consumers of gas from farm taps are not engaged in the transportation of gas, PHMSA agreed. PHMSA determined, however, that the answer to that question does not impact the responsibility placed on the pipeline operator of a service line to ensure compliance with applicable regulations in Part 192. PHMSA Order at 32.

Here, PIOGA's Comments raised questions regarding the Commission's jurisdiction over farm taps, a question that was properly before PHMSA by way of Mifflin Energy's Petition for Declaratory Order. PHMSA's 2021 Letter of Interpretation issued to I&E was used as the foundation of the instant Settlement and PHMSA, in its Order, refused to rescind the letter and acknowledged that its 2021 Letter of Interpretation was correct. As previously noted, while the PHMSA Order was not published in the *Federal Register*, we find PHMSA's reasoning and conclusions therein, persuasive. As such, the Commission does have jurisdiction over the Incident and the resulting Settlement before us. Therefore, we reject PIOGA's arguments regarding jurisdiction.

**E. Disposition of Settlement and Analysis of Policy Statement or *Rosi* Factors**

As noted, *supra*, pursuant to our Regulations at 52 Pa. Code § 5.231, it is the Commission's policy to promote settlements. However, this Commission must first review proposed settlements to determine whether the terms are in the public interest. Based on our review of the Settlement terms and conditions, we find that the Settlement is in the public interest and should be approved.

As also previously noted, consistent with the Commission's policy to promote settlements, we have promulgated a Policy Statement at 52 Pa. Code § 69.1201, which sets forth ten factors that we may consider in evaluating whether a civil penalty for violating a Commission Order, Regulation, or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and the approval of a proposed settlement agreement is in the public interest.

The first factor we may consider is whether the conduct at issue is of a serious nature. 52 Pa. Code § 69.1201(c)(1). "When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher

penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.” *Id.*

The alleged violations against Mifflin Energy are of a serious nature, given that any explosion is serious, however, as I&E states, the Incident was an isolated event and did not place members of the general public at grave risk of injury. I&E Statement in Support at 10. Nevertheless, because the conduct involves safety, which is a major concern to the Commission, we find that the nature of the conduct warrants a higher civil penalty.

The second factor is whether the resulting consequences of the conduct are of a serious nature. 52 Pa. Code § 69.1201(c)(2). “When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.” *Id.* Here, I&E submitted that the Incident involved a gas explosion that resulted in the destruction of property and injury of one individual. I&E Statement in Support at 10-11. As the Incident gave rise to both personal injury and major property damage, this factor warrants a higher penalty.

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

The fourth factor is whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct

may be considered. 52 Pa. Code § 69.1201(c)(4). In this case, I&E noted that Mifflin Energy divested itself from the operational assets that were at issue. Because Mifflin Energy no longer owns the facilities that produce and transport gas, Mifflin Energy has removed itself from the possibility of future violations. I&E Statement in Support at 11.

While we understand that Mifflin Energy will not play a part in any remedial measures to the system, we would be remiss not to mention the Commission's obligation to ensure the facilities are safely managed going forward. In its Reply Comments, I&E explained that, in order to proactively respond to safety concerns, I&E Safety Engineers met with the new owner of the facilities, Mifflin Energy Resources, to review the system and determine what, if any, assets are jurisdictional. According to I&E, additional review of the system is required, however, on its preliminary review it was revealed that the gathering and production systems appeared to be non-jurisdictional while the farm taps connected to the system appeared to be jurisdictional based upon PHMSA's Letter of Interpretation. Additionally, at this review, I&E confirmed that the service line which initiated the Incident has been disconnected and the residence is no longer served from the system. I&E Reply Comments at 4-5. We appreciate the proactive actions taken by I&E's Safety Division to ensure compliance with safety regulations with the new owners. We also take this opportunity to remind the new owners of their responsibilities regarding the provision of safe service and the requirements of the federal safety regulations. Given these considerations, we find the proposed penalty to be fair and reasonable.

The fifth factor is the number of customers affected and the duration of the violations. 52 Pa. Code § 69.1201(c)(5). As mentioned, *supra*, I&E noted that it was an isolated Incident involving facilities that served only two residences. I&E Statement in Support at 11. Additionally, Mifflin Energy stated that only a small number of gas users

were affected. Mifflin Energy Statement in Support at 13. Accordingly, we find that the penalty is appropriate because the Incident was limited to a small amount of gas users.

We may also consider the compliance history of the regulated entity. 52 Pa. Code § 69.1201(c)(6). “An isolated incident from an otherwise compliant utility may result in a lower penalty, whereas frequent, recurrent violations by a utility may result in a higher penalty.” *Id.* Here, I&E noted that, since Mifflin Energy was not known to have any jurisdictional facilities prior to the Incident it has no compliance history with the Commission. I&E Statement in Support at 11. Although Mifflin Energy does not have compliance history with the Commission, we find that the penalty is fair and reasonable considering the unknown jurisdictional facilities were only discovered as a result of the Incident. We further conclude that this factor supports a finding that the Settlement is in the public interest.

Another factor we may consider is whether the regulated entity cooperated with the Commission’s investigation. 52 Pa. Code § 69.1201(c)(7). According to I&E, Mifflin Energy cooperated with I&E to address the violations alleged as a result of the Incident. I&E Statement in Support at 12. I&E explained that the Parties determined it was in their respective best interest, as well as the public interest to settle this matter and reach an agreement as to an appropriate civil penalty that balances all the relevant interests. *Id.* Therefore, we find the civil penalty to be fair and reasonable and that this factor supports a finding that the Settlement is in the public interest.

In addition, we may consider the amount of the civil penalty or fine necessary to deter future violations, as well as past Commission decisions in similar situations. 52 Pa. Code §§ 69.1201(c)(8) and (c)(9). I&E submitted that while the circumstances of the instant matter are unique, the Commission has approved other settlements involving Act 127. I&E Statement in Support at 12. I&E referenced two prior Commission decisions in which the Commission approved settlements for

violations of Act 127.<sup>8</sup> *Id.* at 12-13. Considering the unique circumstances in this matter, we find that the agreed-upon civil penalty presents a fair and reasonable outcome and also supports a finding that the Settlement Agreement is in the public interest.

The tenth factor to consider is other “relevant factors.” 52 Pa. Code § 69.1201(c)(10). As I&E explained, this matter is unique in the sense that Mifflin Energy has sold its operational assets and has no prospective obligations as a pipeline operator under state or federal law with respect to any pipeline or related facilities involved in the Incident. I&E Statement in Support at 13. It is I&E’s position that due to the nature of the facts, there was no benefit to proceeding to litigation or seeking a more significant monetary penalty. *Id.* We agree. At this time, Mifflin Energy does not own or operate the assets at the heart of this matter and, therefore, would not be required to perform remedial measures. It would not be in the public interest to expend time and resources on litigation when Mifflin Energy does not own the subject facilities thus, we find the civil penalty adequately addresses the conduct in this matter. Accordingly, in the ordering paragraphs below, we shall direct that, as agreed upon in the Settlement, Mifflin Energy shall remit a civil penalty in the amount of \$100,000 within thirty (30) days of the entry date of this Opinion and Order.

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<sup>8</sup> See *Pa. PUC v. Bushkill Group, Inc.*, Docket No. C-2015-2512950 (Final Order entered November 30, 2018), in which the Commission approved a settlement imposing a civil penalty of \$37,500 to resolve allegations including, but not limited to, failing to file Act 127 reports and failing to maintain a procedural manual for operations; *Pa. PUC v. XTO ENERGY, Inc. and Mountain Gathering, LLC*, Docket No. C-2014-2444722 (Opinion and Order entered September 3, 2015), in which the Commission approved a settlement imposing a civil penalty of \$30,000 to resolve allegations that the pipeline operator failed to timely identify and classify pipelines for reporting and assessment purposes pursuant to Act 127. I&E Statement in Support at 12-13.

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

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

## **V. Conclusion**

It is the Commission's policy to promote settlements. 52 Pa. Code § 5.231. The Parties herein have provided the Commission with sufficient information upon which to thoroughly consider the terms of the proposed Settlement. Based on our review of the record in this case, the Commission's Regulations and policy statements, as well as the foregoing discussion, we find that the proposed Settlement between the Commission's Bureau of Investigation and Enforcement and Mifflin Energy Corp. is in the public interest and merits approval. Additionally, based on the foregoing discussion, we shall grant the Bureau of Investigation and Enforcement's Motion to Strike the Comments of Pennsylvania Grade Crude Oil Coalition. Accordingly, we shall approve the Settlement, consistent with this Opinion and Order; **THEREFORE,**

### **IT IS ORDERED:**

1. That the Motion to Strike Pennsylvania Grade Crude Oil Coalition's Comments, filed by the Commission's Bureau of Investigation and Enforcement on November 7, 2023, is granted, consistent with this Opinion and Order.
2. That the Joint Petition for Approval of Settlement between the Commission's Bureau of Investigation and Enforcement and Mifflin Energy Corp., filed

on June 26, 2023, at Docket No. M-2023-3019782, is approved in its entirety, without modification.

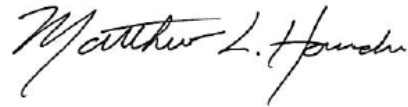
3. That, in accordance with Section 3301 of the Public Utility Code, 66 Pa.C.S. § 3301, within thirty (30) days of the entry of this Opinion and Order, Mifflin Energy Corp. shall remit a civil penalty in the amount of One Hundred Thousand Dollars (\$100,000). Said payment shall be made by certified check or money order and payable to “Commonwealth of Pennsylvania” and shall be sent to:

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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

5. That, after Mifflin Energy Corp. remits the civil penalty as set forth in Ordering Paragraph No. 3, above, the Secretary's Bureau shall mark this proceeding closed.

**BY THE COMMISSION,**

A handwritten signature in black ink that reads "Matthew L. Homsher". The signature is written in a cursive style with a large initial "M".

Matthew L. Homsher  
Secretary

(SEAL)

ORDER ADOPTED: April 24, 2025

ORDER ENTERED: April 24, 2025