



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

BUREAU OF
INVESTIGATION
&
ENFORCEMENT

February 5, 2026

Via Electronic Filing

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

Re: Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement v.
Repsol Oil and Gas USA, LLC
Docket No. C-2025-3053309
I&E Answer to Preliminary Objections

Dear Secretary Homsher:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Answer to the Preliminary Objections of Repsol Oil and Gas USA, LLC in the above-referenced matter.

Copies have been served on the parties of record in accordance with the Certificate of Service. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Allison C. Kaster'.

Allison C. Kaster
Director and Chief Prosecutor
Bureau of Investigation and Enforcement
PA Attorney ID No. 93176
(717) 783-7998
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ACK/nb
Enclosures

cc: Administrative Law Judge Steven K. Haas (via email – sthaas@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2025-3053309
	:	
Repsol Oil and Gas USA, LLC	:	

**BUREAU OF INVESTIGATION AND ENFORCEMENT’S
ANSWER TO THE PRELIMINARY OBJECTIONS OF
REPSOL OIL AND GAS USA, LLC**

In response to Preliminary Objections (Objections) filed by Repsol Oil and Gas USA, LLC (Repsol) on January 26, 2026, the Bureau of Investigation and Enforcement (I&E) files this Answer, pursuant to the regulations of the Pennsylvania Public Utility Commission (Commission) at 52 Pa. Code §§ 5.101.

In ruling on preliminary objections, the Presiding Officer must accept as true all well-pled allegations of material facts as well as all inferences reasonable deducible therefrom. *Stilp v. Commonwealth*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (“*Stilp*”) (citing *Dep’t of Gen. Servs. K Bd. Of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)), *affirmed* A.2d 491 (Pa. 2009). However, the Presiding Officer need not accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Stanton-Negley Drug Co. v. Dep’t of Pub. Welfare*, 927 A.2d 671, 673 (Pa. Cmwlth. 2008), *affirmed*, 963 A.2d 670 (Pa. 2009). Notwithstanding, any doubt must be resolved in favor of the non-moving party. *Stilp* at 781. For preliminary objections to be

sustained, it must appear with certainty that the law will permit no recovery. *See Stilp* at 781; *Milliner v. Enck*, 709 A.2d 417, 418 (Pa. Super. 1998) (quoting *Santiago v. Pa. Nat. Mut. Cas. Ins. Co.*, 613 A.2d 1235, 1238 (Pa. Super. 1992)).

This matter involves the issue of who is responsible for payment of impact fees and administrative (spud) fees mandated by Act 13, when a gas well's owner, operator and producer changes between the calendar year in question and the April 1 due date. In its Formal Complaint, I&E represents that Repsol is responsible for the Act 13 fees for the 72 unconventional gas wells that were owned and operated by Rockdale Marcellus Holdings, LLC and Rockdale Marcellus, LLC (Rockdale) during the 2021 calendar year. The procedural history of this case demonstrates that the answer to this question is complex. On July 23, 2024, the Commonwealth Court issued an Opinion and Order sustaining the Commission's preliminary objection (failure to exhaust administrative remedies) and found that a procedural record must be developed because there are "several factual questions that must be determined about when and how Repsol began to 'hold[] a permit or other authorization' from Rockdale to operate the wells, which controls its status as a *producer* and thus its liability." *Repsol Oil & Gas USA, LLC v. Pa. Pub. Util. Comm'n*, No. 613 MD 2022 (Pa. Cmwlth. 2024) at 18 (*Memorandum Opinion*). The Commonwealth Court found that these questions require the development of a factual record as a "party's producer status is not a pure question of law; per Act 13's controlling text, it turns on whether and when that party was authorized by permit or otherwise, to sever natural gas." *Memorandum Opinion* at 18. The Commonwealth Court concluded that the legal issues raised "are complex and must be decided based on a

concrete factual record—a record which has not yet been developed in this case” and therefore found that the administrative remedy is to “allow the Commission to consider how it will apply Act 13 to these facts.” *Memorandum Opinion* at 22. On July 22, 2025, the Pennsylvania Supreme Court entered a per curiam Order affirming the Commonwealth Court’s decision. *Repsol Oil & Gas USA, LLC v. Pa. Pub. Util. Comm’n*, No. 62 MAP 2024, Order (July 22, 2025).

I&E submits that the Commission must deny Repsol’s Objections and develop a record to determine whether Repsol is the producer responsible for the Act 13 fees for the 2021 calendar year as averred in I&E’s Formal Complaint.

I. BACKGROUND

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.

II. PRELIMINARY OBJECTION

A. Response to Repsol Objection No. 1: Lack of capacity to sue/lack of standing (42 Pa. Code § 5.101(a)(5),(7))

6. Admitted.
7. Admitted.
8. Denied. Rockdale submitted the Act 13 report on February 9, 2022, which automatically generated the Commission’s invoice for impact and spud fees. While the

initial invoice was sent to Rockdale, I&E denies any inference that Repsol did not receive notice as the Commission sent Repsol an Impact Fee Statement on November 30, 2022.

9. Admitted in part, denied in part. I&E admits that the Commission sent an Impact Fee Statement for the period of January 1, 2021 through December 31, 2021 to Rockdale in February 2022 and to Repsol on November 30, 2022. It is denied that doing so bypassed the procedure established in Act 13. Act 13 requires the Commission to notify a producer of a deficiency within 30 days from the date of determining the deficiency. 58 Pa.C.S § 2308(c). Although this appears to be a straightforward, determining whether the responsible “producer” as of April 1, 2022 was Repsol or Rockdale requires a fact-based inquiry.

In order to make this determination, Section 2307 authorizes the Commission “to make all inquiries and determinations necessary to calculate and collect the fee.” 58 Pa.C.S. § 2307(a). In order for the Commission to “make all inquiries and determinations” the Commission’s administrative practice must be utilized under 52 Pa. Code Chapters 1, 3, and 5, which provides a procedure for Repsol to challenge the invoice, engage in a hearing before one of the Commission’s Administrative Law Judge (ALJ), file exceptions to the ALJ’s ruling, and ultimately seek appellate review of a final Commission Order. Repsol is now properly engaged in the Commission’s administrative process so that the Commission can make a determination as to when it became a producer and whether it is responsible for the calendar year 2021 Act 13 fees.

10. This paragraph sets forth a legal conclusion to which no response is required.

11. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, it is denied that the Commission has bypassed the required procedure. To the contrary, Repsol was provided notice of the Act 13 fees in November 2022 and is following the Commission's procedural process wherein it can challenge the fee invoices before the assigned Administrative Law Judge and obtain a final determination from the Commission. The Commonwealth Court correctly determined the "legal issues the Petition raises are complex and should be decided on a concrete factual record-a record which has not yet been developed in this case. An administrative remedy exists to allow that development, and to allow the Commission to consider how it will apply Act 13 to these facts." *Memorandum Opinion* at 22.

12. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

13. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

14. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, Rockdale filed the Act 13 report on February 9, 2022 and the liability for the 2021 impact fees arose on April 1, 2022. I&E filed its Formal Complaint against Repsol on February 7, 2025. I&E's initiation of a docketed proceeding before the Commission tolled the statute of limitations as "the statute of limitation[s] may be tolled during a period of on-going litigation" or during "the active pendency of [a] proceeding." *Sanderman v. LP Water*

and Sewer Co., Docket No. C-00956966, 1997 WL 1050733, n.p. (Order entered October 28, 1997) (*Sanderman*).

B. Response to Repsol Objection No. 2: Failure to join necessary party/lack of jurisdiction (52 Pa. Code § 5.101(a)(1),(5))

15. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

16. The document referenced in paragraph 16 speaks for itself

17. The document referenced in paragraph 17 speaks for itself.

18. Denied. It is denied that the “Commission” filed the Formal Complaint against Repsol on February 7, 2025; rather, I&E, the Commission’s independent prosecutory bureau, brought the action. I&E denies any inference that doing so was improper as Repsol will be afforded the opportunity to make its case through the Commission’s administrative process, which provides for discovery, testimony, evidentiary hearings, and briefing. At the conclusion, the Commission will consider how it will apply Act 13 to the facts presented.

19. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, Repsol will be afforded the opportunity to make its case that it is not the responsible producer for the 2021 Act 13 fees through the Commission’s administrative process. The Commission and the Rockdale Plan Administrator reached a settlement that was entered as an order of the Bankruptcy Court on April 24, 2023, wherein the Rockdale Plan Administrator agreed to pay the Commission \$100,000 in full and final satisfaction of potential liabilities. In

exchange, the “Commission agreed to waive its right to seek any further payment or distribution under the Rockdale Plan, the Rockdale Debtors’ bankruptcy estates of from the Rockdale Plan Administrator on account of the Commission Impact and Spud Fee Invoices.” *In re: Rockdale Marcellus Holdings, LLC*, No. 21-22080 (W.D. Pa. Bankr.), Dkt. No. 1395, Stipulation and Agreed Order Resolving Disputes Between the Rockdale Plan Administrator and Pa. Pub. Utility Comm’ at 5 (Attached as Repsol Exhibit C). Through the settlement Rockdale’s potential liabilities were resolved; however, the Commission reserved “any and all rights it may have against Repsol in connection with the impact and spud fees pursuant to Act 13...” Repsol Exhibit C at 7.

20. The Formal Complaint is a document that speaks for itself.

21. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

22. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

23. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

C. Response to Repsol Objection No. 3: Judicial estoppel/legal insufficiency of a pleading (52 Pa Code § 5.101(a)(4))

24. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

25. The document referenced in paragraph 25 speaks for itself.

26. The document referenced in paragraph 26 speaks for itself.

27. The document referenced in paragraph 27 speaks for itself.

28. The document referenced in paragraph 28 speaks for itself.

29. Admitted.

30. The website referenced in paragraph 30 speaks for itself.

31. Denied. It is denied that the Commission has changed positions in this proceeding. During the Rockdale bankruptcy, the Commission stated that Rockdale filed the annual well permit with the Commission on February 9, 2022, which caused the invoices for spud and impact fees to be automatically generated. The Commission stated that Rockdale, by filing the report and holding the well permits, held itself out as the party who will be responsible for paying the Act 13 impact and spud fees as of April 1, 2022. Repsol Exhibit B, ¶ 16. Through the course of the bankruptcy proceeding, the Commission entered into a settlement agreement with Rockdale's Plan Administration and accepted \$100,000 in full and final satisfaction of Rockdale's potential liabilities but reserved the right to seek recovery of the impact and spud fees against Repsol. The Bankruptcy Court Order provided:

This Agreement generally, and the Commission's acceptance of the Settlement Amount specifically, shall have no effect whatsoever on any action the PUC may pursue involving Repsol and its potential liability for payment of Impact and Spud fees, nor Repsol's defenses thereto under the law and equity.

In re: Rockdale Marcellus, LLC, No. 21-22080 (Bankr. W.D. Pa.), Dkt. 1395, ¶6.

32. The document referenced in paragraph 32 speaks for itself. By way of further response, I&E denies the inference that its Formal Complaint advances a new

position given that the Commission sent Repsol an invoice in November 2022 and reserved its right to seek recovery of the Act 13 fees against Repsol in the Rockdale bankruptcy settlement agreement that was entered into on April 23, 2023. Repsol Exhibit C.

33. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

34. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

35. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

D. Response to Repsol Objection No. 4: Legal insufficiency of a pleading (52 Pa. Code § 5.101(a)(4))

36. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

37. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

38. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

39. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

40. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

41. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

42. Admitted in part, denied in part. It is admitted that the DEP permit can be used to determine the producer under Act 13; however, it is denied that the DEP permit alone controls such status as the statute defines a “producer” as one that holds a permit “*or other authorization* to engage in the business of severing natural gas for sale, profit or commercial use from an unconventional gas well in the Commonwealth.” 58 Pa.C.S. § 2301. The Commonwealth Court recognized that producer status is not simply a question of law but is a factual inquiry to determine whether and when the party was authorized “by permit or otherwise, to sever natural gas.” *Memorandum Opinion* at 18.

Accordingly, the Commonwealth Court held that, “The Act does not obviously make the date of issuance of operation permit by another agency (here, DEP) dispositive of liability of Act 13 fees.” *Memorandum Opinion* at 18.

43. The document referenced in paragraph 43 speaks for itself.

44. The document referenced in paragraph 44 speaks for itself.

45. The document referenced in paragraph 45 speaks for itself.

46. Admitted in part, denied in part. It is admitted that the DEP permit can be used to determine the producer under Act 13. Any inference that DEP permit is the only way to determine the responsible producer is denied as Section 2301 also defines producer as one who receives “other authorization” to sever natural gas. 58 Pa.C.S. § 2301.

47. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

48. The document referenced in paragraph 48 speaks for itself.

49. The document referenced in paragraph 49 speaks for itself.

50. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

51. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

52. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

53. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

54. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

55. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

56. Denied. By way of further response, the question of when DEP approved the transfer of responsibility of the wells from Rockdale to Repsol is a factual issue that must be addressed given that there are two permit dates at issue in this proceeding. DEP transferred all applicable permits from Rockdale to Repsol on June 22, 2022; however, the permits were backdated with an effective date of February 7, 2022. I&E Comp. ¶ 22. The Commonwealth Court correctly questioned “Which permit date controls- the

effective date, which was back-dated to the date of the application, or the date the permit was actually issued?” *Memorandum Opinion* at 18. Moreover, any inference that the DEP permit is the only method to determine producer status is denied. Act 13 recognizes that one can be a producer if the party was authorized by permit or otherwise to sever gas. 58 Pa.C.S. § 2301. As such, the Commonwealth Court stated, “The Act does not obviously make the date of issuance of an operation permit by another agency (here, DEP) dispositive of liability for Act 13 fees.” *Memorandum Opinion* at 18.

57. Admitted in part, denied in part. It is admitted that DEP has a permitting process for unconventional gas wells. Any inference that the DEP permit is dispositive of Act 13 liability is denied.

58. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. Section 2301 also defines producer as one who receives “other authorization” to sever natural gas. 58 Pa.C.S. § 2301. By way of further response, the Commonwealth Court questioned, “Did Repsol receive “other authorization” from Rockdale to operate the wells before formally acquiring a permit from DEP?” *Memorandum Opinion* at 18. For example, the sale between Rockdale and Repsol closed on January 19, 2022 and Repsol representatives began responding to DEP inspections related to the wells. I&E Comp. ¶¶ 19-21. If Repsol was otherwise authorized to sever gas, it is defined as a producer under Act 13.

59. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

60. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

61. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

62. Denied. It is specifically denied that Repsol's status as a producer hinges solely on whether it had an ownership interest in the wells during the 2021 calendar year. I&E recognizes that Repsol did not own or operate these 72 wells in 2021; however, that does not relieve Repsol of its potential Act 13 liability if it is determined to be the producer as of April 1, 2022. Section 2303 of Act 13 demonstrates that the liability attaches to the wells as of April 1, not to the operator during the impacted period. This is why the Commission has consistently determined that, "[w]hen a producer for a particular well changes, the producer responsible for filing an Act 13 report on April 1 is responsible for paying the impact fee." Act 13 of 2012- Implementation of Unconventional Gas Well Impact Fee Act, Clarification Order Regarding Chapter 23, Docket No. M-2012-2288561 (Order entered December 20, 2012) at 11-12.

63. Admitted in part, denied in part. It is admitted that information from the prior year is used to determine the fees but denies any inference that this supports Repsol's conclusion that only the producer who operated the wells in that prior calendar year is responsible for reporting and payment of fees under Act 13.

64. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

65. Admitted in part, denied in part. It is admitted that the producer as of April 1 is required to report for the previous calendar year. Any inference that only the producer who operated the wells in that prior calendar year is responsible for the reporting and liability for Act 13 fees is denied.

66. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

67. Admitted in part, denied in part. It is admitted that producers have until April 1 to submit their Act 13 report and remit payment for spud fees and impact fees for the prior calendar year. Any inference that the producer responsible for making that filing must have operated those wells in that calendar year is denied.

68. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, any inference that a producer who takes possession of wells between January and April does not possess the required information to submit such a report or have any liability for the Act 13 fees as of April 1 is denied.

69. Denied.

70. Denied. It is denied that there is a 15-month period for determining fee liability; rather, the payment liability does not exist until April 1.

71. The document referenced in paragraph 71 speaks for itself. By way of further response, this description was to demonstrate that impact and spud fees accrued as to each well on January 1, 2021, but that such accrual did not attach to a specific producer until April 1, 2022. From January 1 to December 31, wells which are spud

become subject to a fee and owners can pass the wells around without ever becoming liable for the impact fee. However, on April 1 of the following year, the producer of those wells becomes liable for the Act 13 fees.

72. The website referenced in this paragraph speaks for itself.

73. Denied. The Commission's illustration is consistent with the language of Act 13 and its Implementation order. Section 2303(b) requires *producers* to submit payment to the Commission by April 1 and the Commission has correctly determined that the liability for fee payment attaches to the producer who is filing the report on April 1, even if the entity was not the producer in the reporting year. 58 Pa.C.S. § 2303(b). Whether Repsol was a producer of these 72 wells on or before April 1, 2022 is a fact-based inquiry that must receive Commission scrutiny.

74. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

75. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

76. The document referenced in paragraph 76 speaks for itself.

77. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

78. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

79. Admitted in part, denied in part. It is admitted that impact fees compensate for impacts caused by drilling during the previous calendar year. Any inference that the

producer during that calendar year is the only party responsible for paying the impact fees is denied.

80. Denied. It is the Commission's position that the liability for the wells stays with the wells irrespective of the producer status in the previous calendar year. The Commission addressed the question of well transfers between January 1 and April 1 and has determined that "when a producer for a particular well changes, the producer responsible for filing an Act 13 report on April 1 is responsible for paying the impact [and spud] fee." December 20, 2012 Implementation Order at 12; Xtreme Energy at *20, Conclusion of Law No. 10. 25.

81. Denied. The Commission's interpretation of Act 13, namely that it is the producer on April 1 that is responsible for filing the well report and paying the fees, is the correct interpretation. Nothing in Act 13 states that the producer responsible for filing the report and paying the fee must have been the producer for the wells at any given time in the previous calendar year. It would be nonsensical to look to that prior owner or operator for payment as it is no longer the actual entity that has a timely, viable nexus to the well. The Commission addressed the question of well transfers between January 1 and April 1 and found that "when a producer for a particular well changes, the producer responsible for filing an Act 13 report on April 1 is responsible for paying the impact [and spud] fee." December 20, 2012 Implementation Order at 12; Xtreme Energy at *20, Conclusion of Law No. 10. 25.

82. Admitted.

83. Admitted.

84. Admitted.

85. Admitted.

86. Admitted in part, denied in part. It is admitted that Repsol was not the producer for the wells in the 2021 calendar year. It is denied that Repsol has no obligation to report or remit payment for 2021 fees under Act 13 as Repsol was the producer responsible for filing the 2021 Annual Report by April 1, 2022.

87. The document referenced in paragraph 87 speaks for itself.

88. The document referenced in paragraph 88 speaks for itself.

89. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

90. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

91. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

92. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

93. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

94. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

95. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

96. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

97. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

98. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

99. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

100. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

101. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

102. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

103. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

104. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

105. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, Repsol relies on Black's Law Dictionary to define the word "authorized" in support of its argument that it was not a producer prior to the transfer of the DEP permits in June 2022. This argument ignores

that even the DEP permit date is unclear. DEP transferred all applicable permits from Rockdale to Repsol on June 22, 2022, but DEP backdated the effective date of the permit to February 7, 2022. The Commonwealth Court correctly found that it was unclear which permit date controls. *Memorandum Opinion* at 18. Additionally, the Commonwealth Court found that determining whether Repsol was otherwise authorized is not as easy as turning to Black’s Law Dictionary but requires the development of a factual record. Questions such as why Repsol employees were on-site at well pads responding to DEP infractions as early as January 2022 and whether Repsol received profits from the gas extracted between January 1, 2022 must be answered to determine whether Repsol was otherwise authorized to sever the gas prior to the permit transfer date. The Commonwealth Court concluded that such questions are “legally relevant” to determine producer status and require the development of a factual record. *Memorandum Opinion* at 18.

106. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

E. Response to Repsol Objection No. 5: Legal insufficiency of a pleading (52 Pa. Code § 5.101(a)(4))

107. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

108. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, a “producer” is defined as one that holds a permit “*or other authorization* to engage in the business of severing

natural gas for sale, profit or commercial use from an unconventional gas well in the Commonwealth.” 58 Pa.C.S. § 2301.

109. Denied. It has not yet been determined that Repsol was not a producer from January 2022 to April 1, 2022. Therefore, any inference that Repsol is being held retroactively liable for the calendar year 2021 Act 13 fees is denied.

110. Admitted in part, denied in part. It is admitted that the DEP permits were backdated to February 7, 2022; however, it is denied that I&E’s position makes Repsol “retroactively liable.” When and how Repsol became a producer is the crux of the issue to determine whether it is liable for the calendar year 2021 Act 13 fees.

111. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, I&E denies that Repsol is a “future producer” because the date that it became a producer requires the development of a factual record and has not yet been determined by the Commission.

112. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

113. The document referenced in paragraph 113 speaks for itself.

114. The document referenced in paragraph 114 speaks for itself.

115. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

116. Denied. Repsol’s producer status is a fact intensive inquiry that requires the development of a factual record to determine whether and when it was authorized by permit or otherwise to sever natural gas. *Memorandum Opinion* at 18. Such an inquiry

will include whether Repsol received “other authorization” from January 1, 2022 to April 1, 2022 to engage in the business of severing natural gas for profit before the DEP permit was acquired.

117. Denied. It is denied that Rockdale was the holder and only person authorized to exercise the rights granted in the DEP permit because the Commonwealth Court correctly concluded that a record must be developed to answer factual questions concerning when and how Repsol began to “hold a permit or other authorization” to operate the wells. Additionally, the Court concluded that Act 13 “does not obviously make the date of the issuance of an operation permit by another agency (here, DEP) dispositive of liability for Act 13 fees.” *Memorandum Opinion* at 18

118. The document referenced in paragraph 118 speaks for itself.

119. Denied. It is denied that the Commission’s decision to enter into a settlement agreement with Rockdale confirms that it was the only producer liable for the 2021 fees. Through the settlement, Rockdale’s potential liabilities were satisfied but the Commission expressly reserved the right to seek recovery from Repsol.

120. Denied. The Commonwealth Court correctly determined that a factual record must be developed to determine when Repsol began to hold a permit or received other authorization to operate the wells.

121. Admitted in part, denied in part. It is admitted that DEP did not transfer permits from Rockdale to Repsol until June 2022; however, the controlling date of the permit is unclear given that the effective date was backdated to February 2022.

Additionally, any inference that Repsol did not become a producer until the DEP permit

transfer is denied as the date of the DEP permit is not dispositive of its liability for the Act 13 fees. *Memorandum Opinion* at 18

122. The document referenced in paragraph 122 speaks for itself.

123. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

124. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

125. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

F. Response to Repsol Objection No. 6: Lack of prior notice (52 Pa. Code § 5.101(a)(4), (5))

126. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

127. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, I&E denies the inference that Repsol was held retroactively liable for the Act 13 fees.

128. Denied.

129. Admitted.

130. The document identified in paragraph 130 speaks for itself.

131. Admitted.

132. Admitted.

133. Admitted.

134. Admitted.

135. Admitted in part, denied in part. It is admitted that the Commission automatically generated two invoices to Rockdale after it filed the Act 13 report on February 9, 2022. Any inference that Repsol was not a producer or liable for these fees because the invoices were generated is denied.

136. Admitted.

137. Admitted.

138. The document identified in paragraph 138 speaks for itself.

139. The Commission's position in the Rockdale bankruptcy proceeding speaks for itself.

140. Admitted in part, denied in part. It is admitted that Rockdale filed the 2021 report on February 9, 2022. It is denied that Rockdale held the permits for those wells on April 1, 2022. The holder of the permits is a fact inquiry because, when issuing the DEP permit to Repsol in June 2022, DEP backdated the effective date of the permits to February 7, 2022.

141. Admitted in part, denied in part. It is admitted that, upon filing its annual report with the Commission on February 9, 2022, Rockdale received an automatically generated invoice that calculated the impact and spud fees for the reporting year. Any inference that Repsol was not a producer or liable for these fees because the invoices were generated is denied.

142. The Commission's pleading before the Bankruptcy Court speaks for itself.

143. The document identified in paragraph 143 speaks for itself.

144. The document identified in paragraph 144 speaks for itself.

145. The document identified in paragraph 145 speaks for itself.

146. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

147. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, the Commission's interpretation is supported by the statute. Section 2303(b) states:

By September 1, 2012, and April 1 of each year thereafter, each producer shall submit payment of the fee to the commission and a report on a form prescribed by the commission for the previous calendar year.

58 Pa.C.S. § 2303(b)

Therefore, if Repsol was the producer, authorized by permit or was otherwise, as of April 1, it had fair warning of the Act 13 reporting and fees.

148. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, the Commission's interpretation is supported by the statute. If Repsol was the producer, authorized by permit or was otherwise, as of April 1, it had notice of the Act 13 reporting and fees.

149. Denied. Repsol had notice of the Commission's interpretation of Act 13 regarding the entity responsible for fee payment when there is a producer change is meritless. Talisman (Repsol's corporate predecessor) and PIOGA were active participants in the December 20, 2012 Implementation Order proceeding wherein the Commission addressed the question of well transfers between January 1 and April 1,

finding that “when a producer for a particular well changes, the producer responsible for filing an Act 13 report on April 1 is responsible for paying the impact [and spud] fee.”

December 20, 2012 Implementation Order at 12.

150. The document identified in paragraph 150 speaks for itself.

151. The document identified in paragraph 151 speaks for itself.

152. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

153. The document identified in paragraph 153 speaks for itself.

154. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

155. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

156. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. I&E further denies that Repsol is being held retroactively liable for reporting and remitting the 2021 Act 13 fees. Section 2303(b) requires *producers* to submit payment to the Commission by April 1 and the Commission has correctly determined that the liability attaches as of April 1, even if the entity was not the producer in the reporting year. The Commission has consistently liability for the wells stays with the wells irrespective of operator or producer status in the previous calendar year. The only significant fact that matters is who the responsible “producer” is on April 1 of a given calendar year, which is a material fact and legal question in this case that must be determined by the Commission.

157. The document referenced in paragraph 157 speaks for itself.

158. Denied.

159. Denied.

160. The Commission's intervention in Rockdale's bankruptcy proceeding speaks for itself.

161. Denied. The Commission did not participate because, at that time, neither the amount of the fee, nor who owed it, was known because the payment liability did not exist until April 1, 2022. Act 13 and the Commission's Implementation Orders make clear that a well owner's liability for Act 13 fees only attaches on April 1.

162. Denied. The Commission did not participate because, at that time, neither the amount of the fee, nor who owed it, was known because the payment liability did not exist until April 1, 2022. Act 13 and the Commission's Implementation Orders make clear that a well owner's liability for Act 13 fees only attaches on April 1.

163. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied. By way of further response, I&E denies the inference that Repsol had no notice of potential liability under Act 13 given that Section § 2303(b) provides that the liability for fee payment attaches to the producer who is responsible for filing the report on April 1. If Repsol was a producer of those wells on April 1, 2022, it had notice of the Act 13 fees.

164. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

165. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

166. Denied.

167. Denied.

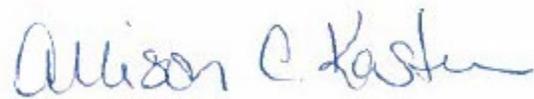
168. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

169. This paragraph sets forth a legal conclusion to which no response is required and is deemed denied.

III. CONCLUSION

WHEREFORE, the Bureau of Investigation and Enforcement respectfully requests that the Preliminary Objections to the Formal Complaint be dismissed.

Respectfully submitted,

A handwritten signature in blue ink that reads "Allison C. Kaster".

Allison C. Kaster
Director and Chief Prosecutor
PA Attorney ID No. 93176

Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Dated: February 5, 2026

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2025-3053309
	:	
Repsol Oil and Gas USA, LLC	:	

VERIFICATION

I, Allison C. Kaster, Esq., hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect that the Bureau of Investigation and Enforcement will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: February 5, 2026



Allison C. Kaster, Esq.
Director and Chief Prosecutor
Pennsylvania Public Utility Commission
Bureau of Investigation and Enforcement
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	Docket No. C-2025-3053309
	:	
Repsol Oil and Gas USA, LLC	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Service by Electronic Mail:

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Dated: February 5, 2026