

JANET ROLLAND and MICHAEL HARTY,
individually and on behalf all others similarly
situated,

Plaintiffs,

v.

SPARK ENERGY, LLC,

Defendant.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

No. 3:17-cv-02680-MAS-LHG

IUE-CWA LOCAL 901, individually and
on behalf of those similarly situated,

Plaintiff,

v.

SPARK ENERGY GAS, LLC,

Defendant.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
INDIANA

No. 1:19-cv-00389-HAB-SLC

BECKY BURGER,

Plaintiff,

v.

SPARK ENERGY GAS, LLC,

Defendant.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
ILLINOIS

No. 1:19-cv-08231-SLE-SRH

CLASS ACTION SETTLEMENT AGREEMENT

Plaintiffs Janet Rolland, Michael Harty, IUE-CWA Local 901, and Becky Burger acting individually and on behalf of the Settlement Class as defined herein (collectively, the “Plaintiffs”), and Defendants Spark Energy, LLC and Spark Energy Gas, LLC (collectively, the “Spark Energy Defendants” or “Spark Energy”) enter into this Settlement Agreement (“Agreement”) as of July 11, 2022. Plaintiffs and the Spark Energy Defendants are collectively referred to herein as the “Parties” and each, individually, as a “Party.” Capitalized terms used herein are defined in Section II of this Agreement or indicated in parentheses elsewhere in this Agreement. Subject to the Court’s approval, the Parties hereby stipulate and agree that, in consideration for the promises and covenants set forth in the Settlement and upon the entry by the Court of a Final Approval Order and the occurrence of the Effective Date, the Action (as defined in Section 2.1 of this Agreement) shall be settled and compromised upon the terms and conditions contained herein.

I. RECITALS

1.1 The *Rolland* Action. Plaintiff Rolland filed a class action complaint against Defendant Spark Energy on April 19, 2017, styled as *Rolland v. Spark Energy, LLC*, No. 17-02680 (D.N.J.) (the “*Rolland* Action”), in the United States District Court for the District of New Jersey. Ms. Rolland pled claims for purported violations of the New Jersey Consumer Fraud Act, breach of contract, and breach of the implied covenant of good faith and fair dealing. Ms. Rolland brought her action individually and on behalf of a putative class of Spark Energy customers nationwide who were charged a variable rate for electricity services by Spark Energy. Following extensive motion practice, including motions to dismiss Ms. Rolland’s claims and to strike her nationwide class allegations, Ms. Rolland continues to pursue her breach of contract and

breach of the implied covenant of good faith and fair dealing claims on behalf of a proposed nationwide class. The parties engaged in discovery in the *Rolland* action beginning in approximately December 2017.

1.2 The *Harty* Action. Plaintiff Harty initiated his action against Spark Energy on March 27, 2019, in the United States District Court for the Northern District of Illinois, styled as *Harty v. Spark Energy, LLC*, No. 19-cv-02151 (N.D. Ill.) (the “*Harty* Action”). The Parties agreed to transfer the *Harty* action to the United States District Court for the District of New Jersey, and, on August 2, 2019, Plaintiff Rolland filed an unopposed motion to consolidate the *Harty* Action with the *Rolland* Action, which the *Rolland* Court granted on September 18, 2019. Plaintiffs Rolland and Harty filed their consolidated Third Amended Class Action Complaint on the same day, alleging violations on behalf of themselves and a proposed nationwide class for common law breach of contract and breach of implied covenant of good faith and fair dealing, and on behalf of a putative sub-class of Spark Energy customers in Illinois who were charged a variable rate for residential electricity services by Spark Energy for alleged violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and the common law.

1.3 The *Local 901* Action. Plaintiff IUE-CWA Local 901 (“Local 901”) initiated its action against Spark Energy Gas, LLC on August 14, 2019, in the Superior Court of Allen County, Indiana, and pled purported violations of the Indiana Deceptive Consumer Sales Act, breach of contract, breach of the implied covenant of good faith and fair dealing, and unjust enrichment. Spark Energy Gas, LLC removed Local 901’s state-court action to the United States District Court for the Northern District of Indiana on September 9, 2019, styled as *IUE-CWA Local 901 v. Spark Energy Gas, LLC*, No. 19-00389 (N.D. Ind.) (the “*Local 901* Action”). Local 901 brought its action individually and on behalf of all individual and business customers in Indiana who were

charged a variable rate for natural gas services by Spark Energy Gas, LLC. Spark Energy Gas, LLC filed a motion to dismiss on August 16, 2019, which was denied on February 18, 2020.

1.4 The *Burger* Action. Plaintiff Burger filed a class action complaint against Defendant Spark Energy Gas, LLC on December 17, 2019, styled as *Burger v. Spark Energy Gas, LLC*, No. 19-08231 (N.D. Ill.) (the “*Burger* Action”), and pled purported violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and claims for breach of contract, breach of the implied covenant of good faith and fair dealing, and unjust enrichment. Ms. Burger brought her action individually and on behalf of a putative class of Spark Energy residential or small commercial customers nationwide who were charged a variable rate for natural gas services by Spark Energy Gas, LLC. She further pled a putative sub-class of Spark Energy customers in Illinois. Spark Energy Gas, LLC filed a motion to dismiss Ms. Burger’s complaint on March 12, 2020, which the Court since struck without prejudice upon a joint request from the parties to stay the action pending mediation.

1.5 Prior to preparing this Agreement, the Parties engaged in an extensive and voluminous exchange of information regarding the facts underlying the claims and defenses in the Actions. Informed by the exchange of information, Plaintiffs and the Spark Energy Defendants decided to pursue settlement negotiations.

1.6 The Parties engaged in arm’s-length settlement negotiations, including a full-day, remote mediation on December 10, 2021, conducted by Rodney A. Max of Upchurch Watson White & Max. The Parties engaged in subsequent mediation sessions before Mr. Max on December 15, 2021, December 18, 2021, and January 18, 2022. At the mediation sessions, and in additional negotiations thereafter, the Parties reached an agreement in principle on the

settlement of the claims in the Actions. The Parties recognize and acknowledge the benefits of settling all of the claims asserted in the Actions.

1.7 After the Parties reached agreement on the benefits to the Settlement Class, the Parties then separately negotiated and reached an agreement concerning the payment of the costs of notice and administration, attorneys' fees, litigation expenses and costs, and service award payments to the Plaintiffs.

1.8 Plaintiffs believe that the claims asserted in their cases have merit. However, Plaintiffs are mindful of the issues of proof under, and possible defenses to, the claims in the Actions. Plaintiffs further recognize and acknowledge the expense and length of time it would take to prosecute the Actions against the Spark Energy Defendants through trial, post-trial proceedings, and appeals. Counsel for Plaintiffs have taken into account the uncertain outcome and risks of the litigation, including the difficulties and delays inherent in such litigation and the likelihood of protracted appeals. Counsel for Plaintiffs have, therefore, determined that the Settlement set forth in this Agreement is fair, reasonable, and adequate, and that the Settlement confers substantial benefits upon, and is in the best interests of, the Plaintiffs and the Settlement Class.

1.9 The Spark Energy Defendants maintain that they have a number of meritorious defenses to the claims asserted in the Action, both on the merits and with respect to whether the claims are appropriate for class certification. Nevertheless, Spark Energy recognizes the risks and uncertainties inherent in litigation, the significant expense associated with defending class actions, the costs of any appeals, and the disruption to its business operations arising out of class action litigation. Spark Energy also recognizes the risk that a trial on class-wide

claims might present. Accordingly, without admitting any liability, Spark Energy is willing to enter into this Agreement to bring an end to these disputes.

II. DEFINITIONS

As used in this Agreement and the attached exhibits (which are an integral part of the Settlement and are incorporated in their entirety by reference), the following terms shall have the meanings set forth below, unless this Agreement specifically provides otherwise. Other capitalized terms in this Agreement but not defined in this section shall have the meanings ascribed to them elsewhere in this Agreement.

2.1 “Action” means the *Rolland* Action, the *Harty* Action, the *Local 901* Action, and the *Burger* Action, as those terms are defined in Sections 1.1 through 1.4 of this Agreement.

2.2 “Administration Expenses” means the taxes (other than the Settlement Administrator’s own income taxes), reasonable fees and expenses incurred by the Settlement Administrator for all tasks the Settlement Administrator performs in furtherance of the notice and administration of the Settlement.

2.3 “Agreement” or “Settlement” means this Settlement Agreement, including all terms, conditions, and exhibits, which contain the entire agreement among the Parties.

2.4 “Attorneys’ Fees and Costs” means all attorneys’ fees and out-of-pocket litigation costs and expenses that may be awarded by the Court based on the Settlement described herein to compensate Class Counsel as determined by the Court, as described more particularly in Section VII of the Settlement.

2.5 “Benefit” means the cash payment available to a member of the Settlement Class who files a Valid Claim. The specific Benefit paid is subject to review, audit, and validation by the Settlement Administrator based upon the terms and conditions of this Agreement.

2.6 “Claim” means a request for a Benefit submitted by a Settlement Class Member on a Claim Form filed with the Settlement Administrator in accordance with the terms of the Settlement.

2.7 “Claim Deadline” means the date by which a Claim Form must be postmarked and mailed to the Settlement Administrator or electronically submitted to be considered timely. The Claim Deadline will be no more than sixty (60) days from the Notice Date.

2.8 “Claim Form” means the form attached hereto as Exhibit A, whether in electronic or “hard copy,” that will be completed by a Settlement Class Member and timely and properly submitted to the Settlement Administrator in order to receive a Benefit under the Settlement.

2.9 “Claim Period” means the period commencing on the Notice Date and concluding sixty (60) days after it commences. The end date of the Claim Period shall be set forth in the Class Notice.

2.10 “Class Counsel” means Greg Blankinship, Todd S. Garber and Chantal Khalil of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP and Matthew Mendelsohn of Mazie Slater Katz & Freeman.

2.11 “Class Member(s)” means all residential consumers who became Spark Energy, LLC customers prior to January 1, 2016 and who paid Spark Energy, LLC for electricity supply on a variable rate during the Class Period, and all residential and small business consumers who became Spark Energy Gas, LLC customers prior to January 1, 2016 who paid Spark Energy Gas, LLC for natural gas on a variable rate during the Class Period. Excluded from the class are: (a) the Spark Energy Defendants; (b) the officers, directors, and employees of the Spark Energy Defendants; (c) any entity in which the Spark Energy Defendants have a

controlling interest; (d) any affiliate or legal representative of the Spark Energy Defendants; (e) the Judge to whom the Action is assigned, the Judge's staff and any member of their immediate family; and (f) any heirs assigns and/or successors of any such persons or entities in their capacity as such.

2.12 "Class Notice" means the notice of pendency and proposed settlement of class action that the Parties will ask the Court to approve in connection with the Motion for Preliminary Approval of Class Action Settlement.

2.13 "Class Period" for electricity customer Class Members means the following periods for the following states:

- a. Connecticut from April 19, 2011, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- b. Illinois from April 19, 2011, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- c. Maryland from April 19, 2014, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- d. Massachusetts from April 19, 2011, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- e. New Jersey from April 19, 2011, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- f. New York from April 19, 2011, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- g. Pennsylvania from April 19, 2013, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement; and

- h. Texas from April 19, 2013, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement.

2.14 “Class Period” for natural gas customer Class Members means the following periods for the following states:

- a. California from December 17, 2015, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- b. Delaware from December 17, 2015, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- c. Illinois from December 17, 2009, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- d. Indiana from August 14, 2009, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- e. Maryland from December 17, 2016, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- f. Michigan from December 17, 2013, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- g. New Jersey from December 17, 2013, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- h. New York from December 17, 2013, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement;
- i. Ohio from December 17, 2011, to the date on which Plaintiffs file their Motion for Preliminary Approval of this Settlement Agreement; and

2.15 “Class Representatives” mean Plaintiffs Janet Rolland, Michael Harty, IUE-CWA

Local 901, and Becky Burger.

2.16 “Court” means the United States District Court for the District of New Jersey.

2.17 “Defendants” or the “Spark Energy Defendants” means Spark Energy, LLC and Spark Energy Gas, LLC.

2.18 “Effective Date” means ten (10) business days after the date of entry of the Court’s Final Approval Order, or if there is one or more objector, the expiration of the time for such objectors to file a notice of appeal from the Final Approval Order, if no appeal is filed, or if an appeal is filed, the latest of the expiration of the time to petition for writ of certiorari to review the Final Approval Order, if affirmed, and if certiorari is granted, the date of final affirmance of the Order following review pursuant to that grant or the date of final dismissal of any appeal from the Final Approval Order or the final dismissal of any proceeding on certiorari to review the Order that has the effect of confirming the Order.

2.19 “Fairness Hearing” or “Final Approval Hearing” means the final hearing to be conducted by the Court, on notice to the Settlement Class, to consider approval of the Settlement and Class Counsel’s motion for approval of attorneys’ fees, reimbursement of costs and expenses, and service awards.

2.20 “Final Approval Order” means the Order entered by the Court granting final approval to the Settlement, approving this Agreement under Fed. R. Civ. P. 23(e) and making such other findings and determinations as the Court deems necessary and appropriate to effectuate the terms of this Agreement, without modifying any terms of this Agreement that any Party deems material. The Final Approval Order should not be entered earlier than ninety (90) days after the appropriate state and federal officials have been served with notice of the Settlement in accordance with the Class Action Fairness Act of 2005, as codified at 28 U.S.C. § 1715(b).

2.21 “Household” means the physical dwelling and/or property at which a Spark Energy customer had an account for variable rate electricity in Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Texas, and/or an account for variable rate natural gas supply service in California, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, and Ohio.

2.22 “Individual Settlement Amount” means the monetary amount of the Benefit that is allocated to each Settlement Class Member.

2.23 “Long-Form Notice” means the notice of pendency and proposed settlement of class action that the Parties will ask the Court to approve in connection with the Motion for Preliminary Approval of Class Action Settlement. The Long-Form Notice, which will be available to Class Members on the Settlement Website, shall be substantially in the form of Exhibit B to this Agreement.

2.24 “Named Plaintiff Service Awards” or “Service Awards” means the monetary amounts awarded by the Court in recognition of the assistance provided by the named Plaintiffs in the prosecution of the Action, the amounts of which are as set forth in Section VII.

2.25 “Notice Date” means the date on which the Short-Form Notice is mailed to Class Members.

2.26 “Objection Deadline” means the last date on which a Class Member may object to the Settlement as set forth in the Preliminary Approval Order and which will be no more than sixty (60) days from the Notice Date.

2.27 “Opt-Out” means a timely request by a Class Member to be excluded from the Settlement Class by following the procedures set forth in the Preliminary Approval Order and Class Notice.

2.28 “Opt-Out Deadline” means the last date on which a Class Member may request to be excluded from the Settlement Class as set forth in the Preliminary Approval Order and which will be no more than sixty (60) days from Notice Date.

2.29 “Parties” means, collectively, the Class Representatives and the Spark Energy Defendants, and “Party” means any one of them.

2.30 “Person” means any natural person, corporation, partnership, business organization, association, or other type of legal entity.

2.31 “Preliminary Approval Order” means the order issued by the Court provisionally (i) granting preliminary approval of this Agreement; (ii) certifying the Settlement Class for settlement purposes; (iii) appointing Class Representatives and Class Counsel; (iv) approving the form and manner of the Class Notice and appointing a Settlement Administrator; (v) establishing deadlines for objecting, opting-out, and making claims; (vi) finding that the Parties have complied with 28 U.S.C. § 1715; and (vii) scheduling the Final Approval Hearing. A proposed Preliminary Approval Order shall be submitted to the Court in the form of Exhibit C to this Agreement.

2.32 “Released Claims” means the following: In exchange for the benefits exchanged in accordance with this Agreement, the Releasing Parties shall release the Released Persons from and for any and all claims, liens, demands, actions, causes of action, obligations, damages, punitive damages, treble damages, penalties, rescission, declaratory or injunctive relief, disgorgement, liabilities, interest, and costs, including attorneys’ fees, of any nature or kind whatsoever, that arose or arise at any time through the date on which Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement is filed, whether legal, equitable or otherwise, whether known or unknown, suspected or unsuspected, existing now or arising in the future, that actually were, or could have been, asserted in the Action regarding the claims asserted by Plaintiffs including, but not limited

to, claims for: breach of contract; breach of the implied covenant of good faith and fair dealing; unjust enrichment; violation of 815 Ill. Comp. Stat. Ann. § 505/1 *et seq.*; violation of 815 Ill. Comp. Stat. Ann. § 505/2GG; violation of 815 Ill. Comp. Stat. Ann. § 505/2EEE; violation of Ind. Code Ann. § 24-5-0.5, *et seq.*; violations of other consumer protection laws of California, Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas; violations of any regulations promulgated by any regulatory agencies in California, Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas regarding the supply of electricity or natural gas; and any and all claims related to or arising from any conduct alleged in the Action (including, but not limited to, relating to any variable rates Spark charged for the supply of electricity or natural gas under any agreements, understandings or programs in California, Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas) and whether the alleged conduct or related conduct may have occurred and/or is based, or could be based, on any act, omission, inadequacy, misstatement, representation, harm, matter, cause or event by any of the Released Persons, including, without limitation, any claims which arise or arose under, or relate to the consumer protection laws of California, Connecticut, Delaware, Illinois, Indiana, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas. In addition, the Spark Energy Defendants and Plaintiffs agree to release each other from all claims, liens, demands, actions, causes of action, obligations, damages, punitive damages, enhanced damages, penalties, liabilities, interest and costs, including attorneys' fees, of any nature or kind whatsoever, which they have, had, or which arose at any time through the date on which Plaintiffs' Motion for Preliminary Approval of Class Action Settlement is filed, whether legal, equitable or otherwise, whether known or unknown,

suspected or unsuspected, as alleged in the Action.

2.33 “Released Persons” means the Spark Energy Defendants and the Spark Energy Defendants’ present and former parents, assignors, subsidiaries, divisions, affiliates, predecessors, successors and assigns, as well as the Spark Energy Defendants’ respective current and former officers, directors, members, stakeholders, owners, employees, agents, licensees, accountants, attorneys and insurers.

2.34 “Releasing Parties” means Plaintiffs, all Class Members, Class Counsel, and any person claiming by or through him/her/it, including any person claiming to be his/her/its spouse, parent, child, heir, guardian, associate, co-owner, attorney, agent, administrator, devisee, predecessor, successor, assignee, representative of any kind, shareholder, partner, director, employee, or affiliate.

2.35 “Reminder Notice” means the notice that, in the event that less than five percent (5%) of Class Members have submitted a Claim Form thirty (30) days before the Claim Deadline, is to be sent to those Class Members who did not submit a Claim Form in the manner and at such time as set forth in the Preliminary Approval Order.

2.36 “Settlement” means all of the terms, conditions and exhibits attached to this Agreement.

2.37 “Settlement Administrator” means a third-party class action Settlement administrator who will implement the designated aspects of this Agreement. The Settlement Administrator, subject to Court approval, will be Kroll Settlement Administration LLC, unless another third-party administrator is later agreed to by the Parties in writing and approved by the Court.

2.38 “Settlement Class” or “Settlement Class Members” means all Class Members

who do not Opt-Out of the Settlement.

2.39 “Settlement Website” means an internet website created and maintained by the Settlement Administrator. The URL of the Settlement Website shall be provided in the Notice Plan approved by the Court.

2.40 “Short-Form Notice” means the summary notice that the Parties will ask the Court to approve in connection with the Class Notice. The Short-Form Notice, which will be mailed to Class Members, shall be substantially in the form of Exhibit D to this Agreement.

2.41 “Valid Claim” means a Claim Form timely submitted by a Settlement Class Member that is submitted in material accordance with the directions accompanying the Claim Form and the provisions of the Settlement and determined to be valid by the Settlement Administrator, jointly by the Parties after good-faith consultation, or by the Court.

III. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS

3.1 The Parties agree that the Court may certify, for settlement purposes only under Fed. R. Civ. P. 23(a) and (b)(3), a Settlement Class consisting of all Settlement Class Members in accordance with the terms of this Agreement and without prejudice to the Spark Energy Defendants’ right to contest class certification in the event that this Agreement fails to become effective or is not fully implemented in accordance with its terms. The Spark Energy Defendants do not concede that the claims asserted against them are suitable for class certification for any purpose other than for settlement purposes.

If the Settlement is not approved or this Agreement fails to be fully implemented, the Spark Energy Defendants reserve all rights to object to any subsequent motion to certify a class in the Action or any other lawsuit and no representation or concession made in connection with the Settlement or this Agreement shall be considered law of the case or an admission by the Spark

Energy Defendants, or to have any kind of preclusive effect against the Spark Energy Defendants, or to give rise to any form of estoppel or waiver by the Spark Energy Defendants in these actions or any other proceeding.

3.2 If the Court declines to certify a Settlement Class, Plaintiffs reserve all rights to seek certification of any putative class and no Plaintiff or Class Counsel will argue or in any way assert that Spark Energy's willingness to enter into the Settlement or any judicial approval or preliminary approval of the Settlement is evidence that any claim asserted by any Plaintiff is suitable for class certification for any reason other than for settlement purposes.

3.3 The Spark Energy Defendants expressly deny any and all liability and/or wrongdoing with respect to any and all of the claims alleged in the Action and any similar lawsuit and enter into the Settlement solely to compromise disputed claims. Accordingly, any references to the alleged business practices of the Spark Energy Defendants in the Settlement, this Agreement, or the related Court hearings and processes shall raise no inference respecting the propriety of those business practices or any other business practices of the Spark Energy Defendants.

IV. REQUIRED EVENTS

4.1 As soon as practicable after the execution of this Agreement, Class Counsel shall file this Agreement and a motion for preliminary approval seeking entry of the Preliminary Approval Order, substantially in the form of Exhibit C to this Agreement, which Order by its terms shall accomplish all of the following:

- 4.1.1 Preliminarily approve the Settlement as within the range of reasonableness to the Settlement Class;
- 4.1.2 Conditionally certify the Settlement Class for the purpose of effectuating the Settlement only;

- 4.1.3 Designate Plaintiffs as the representatives of the Settlement Class;
- 4.1.4 Designate Class Counsel as counsel for the Settlement Class;
- 4.1.5 Approve the Settlement Administrator and instruct the Settlement Administrator to perform all functions in accordance with the terms of this Agreement and the Preliminary Approval Order;
- 4.1.6 Seek an order to stay any other proceedings affecting the certified class pending in any other Court, pending the issuance of the Final Approval Order;
- 4.1.7 Approve the form, contents, and method of notice to be given to the Settlement Class as set forth in Section VI of this Agreement, and direct the Settlement Administrator to provide, or cause to be provided, such notice and to file with the Court a declaration of compliance with those notice requirements, as set forth in Section VI of this Agreement; and
- 4.1.8 Setting the date of the Fairness Hearing, upon notice to the Settlement Class.

V. SETTLEMENT CONSIDERATION AND PROCEDURES FOR PROVIDING BENEFITS TO SETTLEMENT CLASS MEMBERS

5.1 Benefit Available to Settlement Class Members

In order to qualify for a Benefit, Class Members must submit a Valid Claim. This may be done on the Settlement Website using the unique Class Member identifier provided in the Short-Form Notice or by submitting a paper copy of the Claim Form. Claim Forms submitted via mail must be postmarked on or before the Claim Deadline, and Claim Forms submitted on the Settlement Website must be submitted on or before the Claim Deadline.

5.2 Calculation of Settlement Benefit

In consideration of the Settlement and Release given herein, the Spark Energy Defendants will make the following Benefit available to each Settlement Class Member who

submits a Valid Claim: \$.003 per kilowatt hour for which the Settlement Class Member paid a variable price for electricity; and \$.0293 per therm for which the Settlement Class Member paid a variable price for natural gas.

5.3 The Benefit described in Sections 5.1 and 5.2 of this Agreement will be available on a “claims-made” basis, and the Spark Energy Defendants will pay, or cause to be paid, Valid Claims only. This Agreement does not create any vested property interest or unclaimed property rights for Class Members who do not submit Valid Claims.

5.4 All Settlement Class Members who submit a Claim Form must sign (or, in the case of claims submitted via the Settlement Website, electronically confirm), as part of the Claim Form, an attestation under penalty of perjury that they were a Class Member during the Class Period, as those terms are defined in this Agreement.

5.5 Settlement Class Members who submit a Valid Claim will be paid their respective individual Benefit by check, and they shall have ninety (90) days within which to cash or deposit those checks after the checks are mailed by the Settlement Administrator. Upon the expiration of such period, any check not cashed or deposited will become void. The voiding of any such check by the passage of time as described in this paragraph shall not serve to invalidate the release given in Section X hereof by any Class Member who failed to timely negotiate his or her check.

VI. PROCEDURES FOR PROVIDING NOTICE AND BENEFIT TO SETTLEMENT CLASS MEMBERS

6.1 The Parties shall jointly ask the Court to approve Kroll Settlement Administration LLC as the Settlement Administrator. The Settlement Administrator shall, subject to the supervision of the Court, administer the relief provided by this Agreement. The Settlement Administrator shall maintain all reasonably detailed records of its activities relating to this

Agreement. The Settlement Administrator shall maintain all records as are required by applicable law in accordance with its normal business practices and such records will be made available to Class Counsel, counsel for the Spark Energy Defendants, the Parties, and their representatives promptly upon request.

The Settlement Administrator will be responsible for, among other things, providing notice as set forth in the Agreement and Preliminary Approval Order, processing Claim Forms, Opt-Outs, and Objections to the Settlement (including receiving and maintaining on behalf of the Court and the Parties any Class Members' correspondence regarding Opt-Out requests from the Settlement Class), establishing the Settlement Website, timely sending deficiency letters to Class Members who submit deficient claim forms, and administering the payment of Valid Claims. The Settlement Administrator shall not provide notice except as set forth in the Preliminary Approval Order, and the Settlement Administrator will have exclusive responsibility for providing notice of the Settlement to Class Members. Neither Class Counsel nor the Spark Energy Defendants, directly or indirectly (other than through the Settlement Administrator), shall provide notice of, or otherwise initiate communications with any Class Member regarding, the Settlement. The Settlement Administrator will use adequate and customary procedures and standards to prevent the payment of fraudulent claims, including but not limited to: validating Claims against Spark Energy's records, employing a unique Class Member identifier that Class Members will use to access the Claim Form via the Settlement Website, and screening for multiple or fraudulent claims that are not consistent with the records. The Settlement Administrator and the Parties will have the right to audit claims. If any fraud is detected or reasonably suspected, the Settlement Administrator may request further information from the Class Member or deny claims, subject to the supervision of the Parties and ultimate oversight by the Court. The Settlement Administrator

will approve or deny all claims, except that Class Counsel and Spark Energy will have the right to audit claims and/or to challenge the Settlement Administrator's decisions. In the event that any Party disputes a decision by the Settlement Administrator, the Parties will confer in good faith and, if they are able to reach agreement, direct the Settlement Administrator accordingly. In the event that the Parties are not able to reach agreement, any Party may submit the issue to the Court for resolution.

6.2 Based on Spark Energy's data and information shared with Plaintiffs, there are approximately 287,715 Class Members. The total electricity consumption amount is approximately 2,129,353,754 kilowatts, and the total natural gas consumption amount is approximately 157,336,268 therms. No later than ten (10) days after the Court enters the Preliminary Approval Order, to the extent reasonably available to it, Spark Energy will provide the Settlement Administrator, in a format to be agreed upon by Spark Energy and the Settlement Administrator, an electronic file containing the following data with respect to each Class Member: their names and last known addresses and email addresses, and Household usage amounts for electricity supply service and/or natural gas supply service while on a Spark Energy variable-rate plan during the Class Period ("Class Member E-File").

6.3 Upon receipt of the Class Member E-File, the Settlement Administrator will conduct a search on the National Change of Address Database of the names of all Class Members to determine if the last known mailing address remains valid. The Settlement Administrator will, if appropriate, revise the last known mailing address based on the results of this search and the last known mailing address or the revised address, as appropriate, will be deemed the "Current Address" of the for purposes of the Settlement Administrator mailing the Short-Form Notice and, if necessary, a Reminder Notice.

6.4 In the event that a Short-Form Notice is returned to the Settlement Administrator as undeliverable, the Settlement Administrator will conduct a one-time skip trace search of the Class Member to determine if an address other than the Current Address can be verified. Based on the results of its search, the Settlement Administrator will, if appropriate, revise the Current Address and re-send, by mail, first class postage pre-paid, the Short-Form Notice to the “Revised Current Address.” The Settlement Administrator will employ the Revised Current Address for purposes of mailing a Reminder Notice, if any, and any checks. However, where a Class Member has provided a different mailing address on a Claim Form or the Settlement Website, that address will be used for the purpose of mailing checks or Reminder Notices, if any.

6.5 No later than twenty (20) days after entry of the Preliminary Approval Order, the Short-Form Notice to the Settlement Class will be transmitted by United States Mail in a preprinted postcard format with a change of address form on the back flap. The Short-Form Notice will include an identification number unique to each Class Member, which will permit certain information to automatically populate the online Claim Form.

6.6 No later than twenty (20) days after the Preliminary Approval Order, the Settlement Administrator will create and maintain the Settlement Website, which will provide, among other things, copies of the Long-Form Notice, this Agreement, the Settlement Administrator’s and Class Counsel’s contact information, the operative Complaints in the Action, the motions for and memoranda and affidavits in support of preliminary and final approval of the Settlement submitted by Plaintiffs, and a method for the electronic submission of Claim Forms at the appropriate time. The Settlement Website will also contain the following additional information and functionalities:

a. Contain a search function through which Class Members can confirm that they are Class Members;

b. Permit Class Members to automatically populate the online Claim Form using the unique identification number contained on the Short-Form Notice and Reminder Notice, and to update their mailing address;

c. Contain a statement of the minimum benefit (\$2.50) and will state a monthly average/median estimate of proceeds in a Benefit for a Settlement Class Member for each month of the Settlement Class Member's tenure as a Spark Energy customer receiving electricity or natural gas on a variable-rate basis; and

d. Contain a "frequently asked questions" section setting forth procedures for completing and submitting a Claim Form online or by mail; procedures for requesting exclusion from the Class pursuant to the terms of the Preliminary Approval Order; procedures for objecting to the Settlement pursuant to the terms of the Preliminary Approval Order; the scheduled date for the Final Approval Hearing; and deadlines relevant to the Settlement as established in the Preliminary Approval Order, including the dates for seeking exclusion from the Class, objecting to the Settlement, and filing a Claim Form.

6.7 No later than twenty (20) days after entry of the Preliminary Approval Order, the Settlement Administrator shall establish a phone number that Class Members may call if they have questions or wish to request paper copies of the Claim Form.

6.8 If the number of Claim Forms submitted is less than five percent (5%) of the total number of Class Members thirty (30) days before the Claim Period ends, the Settlement Administrator will cause the Reminder Notice to be mailed, by first class mail, postage pre-paid, to all Class Members identified in the Class Members E-File at the addresses set forth therein or at such other addresses as the Settlement Administrator identifies pursuant to the procedures set forth above, provided that no Reminder Notice will be sent to any Class Member (i) who submits

a Claim Form prior to the date when the Reminder Notice is to be sent or (ii) whose Short-Form Notice was returned as undeliverable despite the Settlement Administrator's use of a Revised Current Address pursuant to the procedures set forth above.

6.9 The Settlement Administrator will be responsible for the following additional duties:

- a. Training its employees and agents to fully, accurately and without bias (i) apply the requirements set forth herein for approving or rejecting a Claim Form, (ii) communicate with Class Members, Class Counsel and the Spark Energy Defendants' Counsel concerning all matters relevant to the administration of the Settlement, and (iii) perform all other functions required of the Settlement Administrator under this Agreement;
- b. Performing any tax reporting or other duties required by federal, state, or local law, including but not limited to with respect to payment of Valid Claims, collecting necessary IRS W-9 forms, and issuing an IRS Form 1099 to Class Members who submit Valid Claims;
- c. Maintaining adequate records of all its activities, including the dates of each mailing of the Short-Form Notice and Reminder Notice; the date when the Settlement Website became publicly accessible; returned mail from Class Members or Settlement Class Members; and other communications and attempted written or electronic communications with Class Members or Settlement Class Members;
- d. Retaining in an accessible manner all written communications with Class Members or Settlement Class Members;

- e. Preparing reports, schedules and declarations as requested by Class Counsel or Defendant's Counsel and/or are described herein as the responsibility of the Settlement Administrator;
- f. Preparing and mailing checks (which shall be sent in an envelope, not as a postcard) to pay Valid Claims;
- g. Referring to Class Counsel all inquiries by Class Members or Settlement Class Members regarding matters not specified herein as within the scope of the Settlement Administrator's responsibilities; and
- h. Performing such other tasks as Class Counsel and the Spark Energy Defendants' Counsel mutually request.

6.10 No later than seven (7) days prior to the Final Approval Hearing, the Settlement Administrator will certify to the Court compliance with the notice provisions of this section.

6.11 Within ten (10) days of the Effective Date, the Spark Energy Defendants will deliver or cause to be delivered to the Settlement Administrator the aggregate amount of funds to be deposited in the account to pay Valid Claims.

6.12 Within ten (10) days after funding of the account, the Settlement Administrator will draw and mail checks payable to Class Members with Valid Claims, remaining undeliverable checks to the extent valid current addresses are available.

VII. CLASS COUNSEL'S APPLICATION FOR AN AWARD OF ATTORNEYS' FEES, REIMBURSEMENT OF COSTS, AND NAMED PLAINTIFF SERVICE AWARDS

7.1 Class Counsel will submit an application (the "Fee and Expense Application") to the Court for an award of: (i) attorneys' fees not to exceed \$2,860,000.00; and (ii) reimbursement of litigation expenses and costs not to exceed \$250,000.00. The Spark Energy Defendants will not oppose Class Counsel's Fee and Expense Application for these or lesser amounts. Attorneys' fees

and expenses as awarded by the Court (“Fee and Expense Award”) to Class Counsel shall be paid by the Spark Energy Defendants to Class Counsel within ten (10) days after the Effective Date. The Spark Energy Defendants will pay the Fee and Expense Award separate and apart from the amounts made available to Settlement Class Members who submit Valid Claims. The Fee and Expense Award for which the Spark Energy Defendants shall be responsible will not exceed a maximum total of \$3,110,000.00. Class Counsel will provide the Spark Energy Defendants with all necessary accounting and tax information, including W-9 forms, with reasonable advance notice to allow the Spark Energy Defendants to pay the Fee and Expense Award as set forth above.

7.2 Class Counsel intend to file an application for Court approval of Service Awards to Class Representatives for Plaintiffs Rolland, Harty, and Burger each in the amount of \$5,000 and Local 901 in the amount of \$10,000 (for a total of \$25,000.00). Spark Energy shall not oppose this application for Service Awards in the amounts set forth in this paragraph. The Spark Energy Defendants will pay the Service Awards approved by the Court separate and apart from the amount made available for Settlement Class Members who submit Valid Claims.

7.3 Class Counsel shall have sole authority to determine the allocation among and between Plaintiffs’ Counsel, and shall do so in good faith according to the contributions made in the Action.

7.4 Subject to the maximum amounts set forth in Sections 7.1 and 7.2 of this Agreement, it is not a condition of this Agreement that any particular amount of attorneys’ fees, costs, or expenses or Service Awards be approved by the Court, or that such fees, costs, expenses or awards be approved at all. Any order or proceeding relating to the amount of any award of attorneys’ fees, costs, or expenses or Service Awards, or any appeal from any order relating thereto, or reversal or modification thereof, shall not operate to modify, terminate or cancel this

Agreement, or affect or delay the finality of the Final Order and Judgment, except that any modification, order or judgment cannot result in Spark Energy's overall obligation exceeding the amounts set forth in Sections 7.1 and/or 7.2 of this Agreement.

7.5 The Spark Energy Defendants agree to pay Administration Expenses, separate and apart from the amounts made available to Settlement Class Members who submit Valid Claims.

7.6 Except as otherwise provided in this Section, each Party will bear its own costs, including attorneys' fees, incurred in connection with the Action.

VIII. OPT OUTS AND OBJECTIONS

Subject to an Order of the Court so providing, the Parties agree that:

8.1 Opt-Out

Any potential Class Member, other than a Class Representative, may elect to be excluded from the Settlement and from the Settlement Class by Opting-Out of the Settlement Class. Any potential Settlement Class Member who desires to be excluded from the Settlement Class must give written notice of the election to Opt-Out on or before the date specified in the Preliminary Approval Order, with copies mailed to the Settlement Administrator, Class Counsel, and counsel for the Spark Energy Defendants. Opt-Out requests must: (i) be signed by the Settlement Class Member who is requesting exclusion; (ii) include the full name and address of the Class Member requesting exclusion; and (iii) include a statement in substantially the following form: "I/We request to Opt-Out from the settlement in the Action." No Opt-Out request will be valid unless all of the information described above, or the functional equivalent, is included. No Class Member, or any person acting on behalf of or in concert or participation with that Class Member, may exclude any other Class Member from the Settlement Class. The last date for Class Members to Opt-Out of the Settlement will,

subject to Court approval, be on the Opt-Out Deadline contained in the Preliminary Approval Order.

The Class Representatives affirmatively support this Settlement and agree not to Opt-Out of the Settlement. None of the Class Representatives, Class Counsel, Spark Energy, or their counsel shall in any way encourage any Class Member to opt out or discourage any Class Member from participating in the Settlement.

8.2 Objections

Any Class Member who wishes to object to the Settlement must file a written Objection and, if the Settlement Class Member wishes to appear at the Fairness Hearing, a notice of intention to appear before the Court at the Fairness Hearing, and serve copies on the Settlement Administrator, Class Counsel, and counsel for Spark Energy. To be heard at the Fairness Hearing, the Settlement Class Member must make any Objection in writing, file it with the Clerk of Court by the Opt-Out and Objection Deadline, and file a notice of intention to appear. The Objection must also be mailed to each of the following, postmarked no later than the last day to file the objection: (i) Class Counsel via D. Greg Blankinship, FINKELSTEIN, BLANKINSHIP, FREI-PEARSON & GARBER, LLP, One North Broadway, Suite 900, White Plains, NY 10601, (ii) counsel for the Spark Energy Defendants via Kevin P. Allen, DUANE MORRIS LLP, EQT Plaza, 625 Liberty Avenue, Suite 1000, Pittsburgh, PA 15222, and (iii) the Settlement Administrator. Any Objection must (a) attach documents establishing, or provide information sufficient to allow the Parties to confirm, that the objector is a Class Member; (b) include a statement of such Class Member's specific Objection; (c) state the grounds for the Objection; (d) identify any documents such objector desires the Court to consider; (e) provide all information requested on the Claim Form. In addition, any Class Member objecting to the Settlement shall provide a list of all other

Objections submitted by the objector, or the objector's counsel, to any class action settlements submitted in any Court in the United States in the previous five years. If the Class Member or his/her or its/their counsel has not objected to any other class action settlement in the United States in the previous five years, he/she or its/their counsel shall affirmatively so state in the Objection. Any Objection to be considered timely must be filed by the Objection Deadline contained on the Preliminary Approval Order.

IX. PROCEDURES FOR SETTLEMENT APPROVAL

9.1 Final Approval of the Court

This Agreement and the Settlement embodied herein are subject to Final Approval by the Court. If the Settlement is approved, the Court will enter a judgment dismissing the Action with prejudice in a form substantially similar to that attached as Exhibit E. The Parties waive any right to appeal or collaterally attack a Final Approval Order entered by the Court.

If this Agreement or any material part of it is modified by the Court or is materially modified on appeal or remand, any Party may terminate this Agreement pursuant to Section 14.1 of this Agreement. If no Party timely elects to terminate, then the Parties shall remain bound to the Settlement as so modified. For purposes of this paragraph, a "material modification" is one that significantly alters the rights or obligations of one or more of the Parties. Without limiting the foregoing and by way of illustration only, material modifications include but are not limited to: (1) any change to the scope of the Released Claims set forth in this Agreement; (2) any change to the Final Approval Order that limits or reduces any of the protections afforded to the Spark Energy Defendants; (3) any increase in the cost of the Settlement to be borne by the Spark Energy Defendants to be determined at the sole discretion of the Spark Energy Defendants; and (4) any non-trivial change to the Benefit, Class Notice, Claim Form,

or claim process. No order or action of the Court pertaining to attorneys' fees or expenses shall be considered to constitute a modification so long as such order, action, or modification does not increase the cost of settlement to be borne by the Spark Energy Defendants, and does not require that the Spark Energy Defendants do anything not specifically set forth herein, or is one that significantly affects the rights or obligations of one or more of the Parties. Similarly, no order or action of the court pertaining to the Named Plaintiff Service Awards shall be considered to constitute a material modification so long as such order, action or modification does not increase the cost of Settlement to be borne by the Spark Energy Defendants and does not require that the Spark Energy Defendants do anything not specifically set forth herein.

X. RELEASES

10.1 Upon the Effective Date and without any further action by the court or by any Party to this Agreement, Plaintiffs and the Settlement Class Members and all of their administrators, executors, personal representatives, heirs, agents, attorneys, assigns, predecessors and successors, for good and sufficient consideration, the receipt and adequacy of which are acknowledged, shall be deemed to, and shall, in fact, have remised, released and forever discharged any and all Released Claims, which they, or any of them, had or has or may in the future have or claim to have against any of the Released Persons.

10.2 The Releasing Parties hereby fully release and forever discharge the Released Parties from the Released Claims.

10.3 Without limiting the foregoing, the release specifically extends to claims that the Releasing Parties do not know or suspect to exist in their favor at the time that the Settlement, and the release contained herein, become effective. This paragraph constitutes a

waiver of, without limitation as to any other applicable law, section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Releasing Parties understand and acknowledge the significance of these waivers of California Civil Code section 1542 and any other applicable federal or state statute, case law, rule or regulation relating to limitations on releases. In connection with such waivers and relinquishment, the Releasing Parties acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be true with respect to the subject matter of the Settlement, but that it is their intention to release fully, finally and forever all Released Claims with respect to the Released Parties, and in furtherance of such intention, the release of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

XI. FINAL JUDGMENT AND SETTLEMENT APPROVAL

This Agreement is subject to and conditioned upon the issuance by the Court of the Final Approval Order that finally certifies the Settlement Class for the purposes of the Settlement, grants final approval of this Agreement, and provides the relief specified herein, which relief shall be subject to the terms and conditions of this Agreement and the Parties' performance of their continuing rights and obligations hereunder.

XII. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to, and agrees with, the other Parties as follows:

12.1 Each Party has had the opportunity to receive, and has received, independent legal advice from his, her, or its attorneys regarding the advisability of making the Settlement, the advisability of executing this Agreement, and the legal and income tax consequences of this Agreement, and fully understands and accepts the terms of this Agreement.

12.2 The Spark Energy Defendants represent and warrant: (a) that they have the requisite company power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby; (b) that the execution, delivery and performance of this Agreement and the consummation by it of the actions contemplated herein have been duly authorized by necessary company action on the part of the Spark Energy Defendants; and (c) that this Agreement has been duly and validly executed and delivered by the Spark Energy Defendants and constitutes their legal, valid and binding obligation.

12.3 Plaintiffs represent and warrant that they are entering into this Agreement on behalf of themselves individually and as proposed representatives of the Settlement Class Members, of their own free will and without the receipt of any consideration other than what is provided in this Agreement or disclosed to, and authorized by, the Court. Plaintiffs represent and warrant that they have reviewed the terms of this Agreement in consultation with Class Counsel and believes them to be fair and reasonable, and covenant that they will not file an Opt-Out request from the Settlement Class or object to this Agreement.

12.4 Plaintiffs represent and warrant that no portion of any claim, right, demand, action, or cause of action against any of the Released Parties that Plaintiffs have or may have arising out of these lawsuits or could have asserted in these lawsuits, and no portion of any recovery or settlement to which Plaintiffs may be entitled, has been assigned, transferred, or conveyed by or for Plaintiffs in any manner; and no Person other than Plaintiffs has any legal or equitable interest

in the claims, demands, actions, or causes of action referred to in this Agreement as those of Plaintiffs..

12.5 No Party relies or has relied on any statement, representation, omission, inducement, or promise of any other Party (or any officer, agent, employee, representative, or attorney for any other party) in executing this Agreement, or entering the Settlement provided for herein, except as expressly stated in this Agreement.

XIII. NO ADMISSIONS OF FAULT

The Agreement and every term contained in it is conditioned upon final approval of the Court and is made for settlement purposes only. Whether or not consummated, this Agreement shall not be construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession or an admission by Plaintiffs, the Spark Energy Defendants, any Class Member or Released Party, of the truth of any fact alleged or the validity of any claim or defense that has been, could have been, or in the future might be asserted in any litigation, or the deficiency of any claim or defense that has been, could have been, or in the future might be asserted in any litigation, or of any liability, fault, wrongdoing or otherwise of such Party.

XIV. MISCELLANEOUS PROVISIONS

14.1 Termination of Agreement

Except as expressly set forth herein, the Parties shall have the right to terminate the Settlement and this Agreement by providing written notice of their election to do so to the other Party if (a) the Court declines to enter the Preliminary Approval Order or in the event of any “material modification” of this Agreement as described in Section 9.1 of this Agreement; (b) the Court refuses to approve the Settlement or any material part thereof; (c) the Court declines to enter the Final Approval Order or makes material changes thereto; (d) the Final Approval Order

is vacated, modified or reversed in any material respect; or (e) the Effective Date otherwise does not occur. Such notice must be provided, if at all, within sixty (60) days of such events.

If more than ten percent (10%) of the Settlement Class Members Opt-Out of the Settlement, Spark Energy Defendants may, in their sole discretion, terminate the Settlement within five (5) business days after receiving notice from the Settlement Administrator that this threshold has been reached, which notice shall be provided by the Settlement Administrator no later than ten (10) days before the Fairness Hearing.

14.2 Entire Agreement

This Agreement, together with the Exhibits hereto, constitutes the complete and entire agreement between the Parties with respect to the subject matter of the Settlement and supersedes all prior negotiations, communications, memoranda, and agreements between the Parties. Neither Plaintiffs nor the Spark Energy Defendants are entering into this Agreement in reliance on any representations, warranties, or inducements other than those contained in this Agreement.

14.3 Change of Time Periods

Subject to the provisions set forth in Section 6 of this Agreement, the time periods and/or dates described in this Agreement with respect to the giving of notices and hearings are subject to approval and change by the Court or by the written agreement of Plaintiffs' Counsel and counsel to Spark Energy, without notice to Class Members except that the Settlement Administrator shall ensure that such dates are posted on the Settlement Website.

14.4 Extension of Time

The Parties reserve the right, by agreement and subject to the Court's approval, to grant any reasonable extension of time that might be needed to carry out any of the provisions of this

Agreement.

14.5 Plaintiffs' Authority

Class Counsel represents and warrant that they are authorized to take all appropriate actions required or permitted to be taken by or on behalf of Plaintiffs in order to effectuate the terms of this Agreement and are also authorized to enter into appropriate modifications or amendments to this Agreement on behalf of Plaintiffs.

14.6 Counterparts

This Agreement may be executed in one or more counterparts, all of which together shall be deemed to be one and the same instrument. The Parties agree that a copy of the executed counterparts may be filed with the Court in connection with the motion to approve the Settlement, either in portable document format or some other suitable electronic form, as an exhibit to Plaintiffs' Motion for Preliminary Approval without the need to collate and file a copy with original signatures.

14.7 Cooperation

The Parties shall cooperate with the Settlement Administrator to the extent reasonably necessary to assist and facilitate the Settlement Administrator in carrying out its duties and responsibilities.

14.8 Binding Nature

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the Plaintiffs, Settlement Class Members, and the Spark Energy Defendants.

14.9 Construing this Agreement

This Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it may have been initially drafted by counsel for only one of the Parties.

It is recognized that this Agreement is the result of arm's-length negotiations between the Parties, and it is acknowledged that all Parties have contributed substantially to the preparation of this Agreement; accordingly, the doctrine of *contra proferentum* shall not apply in construing this Agreement, nor shall any other such similar doctrine apply.

14.10 Choice of Law

This Agreement shall be governed by and interpreted in accordance with the substantive law of the State of New Jersey, exclusive of choice of law principles.

14.11 Jurisdiction

The Parties submit to the exclusive jurisdiction of the United States District Court for the District of New Jersey for the purpose of enforcing this Agreement or implementing any part of the Settlement embodied in this Agreement.

14.12 Headings

The captions and headings employed in this Agreement are for convenience only, are not a part of this Agreement, and shall not be used in construing or interpreting this Agreement.

14.13 Media and Contact of Class Members

The Parties and their counsel agree that they will not issue any press release or hold any press conference or initiate any contact with the press, media, or any industry association about the Action and/or the facts, amount, or terms of the Settlement. If the Parties or their counsel are contacted by the press, media, or any industry association, they will respond only that the Action has been amicably resolved. No Party or their counsel shall make any reference to the value of the Settlement on any website, in any promotional material, or otherwise, except as required by law. Notwithstanding the foregoing, Class Counsel may post a copy of language from the notices attached to this Agreement and provide a hyperlink

to the Settlement Website.

14.14 Evidentiary Preclusion

The Parties agree that, to the fullest extent permitted by law, neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any claim or of any wrongdoing or liability of the Released Parties; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any Released Party or the appropriateness of class certification in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. In addition, any failure of the Court to approve the Settlement and/or any objections or interventions may not be used as evidence in the Action or any other proceeding for any purpose whatsoever. However, the Released Parties may file the Agreement and/or the Final Approval Order in any action or proceeding that may be brought against them in order to support a defense or counterclaim based on principles of res judicata, collateral estoppel, release, good-faith settlement, judgment bar, or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

14.15 Effectiveness, Amendments, and Binding Nature

This Agreement may be amended only in writing signed by the Parties. Except as otherwise stated above, each Party expressly accepts and assumes the risk that, if facts or laws pertinent to matters covered by this Agreement are hereafter found to be other than as now believed or assumed by that party to be true or applicable, this Agreement shall nevertheless remain effective.

This Agreement is binding on, and shall inure to the benefit of, the Parties and their

respective agents, employees, representatives, officers, directors, parents, subsidiaries, assigns, executors, administrators, insurers, and successors in interest. All Released Parties other than Spark Energy, which is a Party, are intended to be third-party beneficiaries of this Agreement.

14.16 Stay Pending Court Approval

Class Counsel and counsel for the Spark Energy Defendants agree that, as soon as reasonably practicable after the Preliminary Approval Order is filed in the *Rolland* Action, they shall move to stay all proceedings impacted by this Agreement, specifically the *Burger* and *Local 901* Actions, and request that such stays remain in place until the Effective Date of the Settlement has occurred. After the Effective Date of the Settlement has occurred, the Parties agree to promptly file stipulations of dismissal in the *Burger* and *Local 901* Actions.

If, despite the Parties' best efforts, this Agreement should fail to become effective, the Parties will return to their prior positions in this Action.

The Parties also agree to use their best efforts to seek the stay and dismissal of, and to oppose entry of, any interim or final relief in favor of any Class Member in, any other proceedings against any of the Released Parties which challenges the Settlement or otherwise asserts or involves, directly or indirectly, a Released Claim.

14.17 Notices

Whenever this Agreement requires or contemplates that one Party shall or may give notice to the other, notice shall be provided in writing by certified or guaranteed overnight mail, and email to:

- a. If to Plaintiffs or Class Counsel:

D. Greg Blankinship
FINKELSTEIN, BLANKINSHIP, FREI-PEARSON & GARBER, LLP

One North Broadway, Suite 900
White Plains, NY 10601

b. If to Spark Energy or its Counsel:

Kevin P. Allen
DUANE MORRIS LLP
625 Liberty Avenue, Suite 1000
Pittsburgh, PA 15222

14.18 Good Faith

The Parties agree that they will act in good faith and will not engage in any conduct that will or may frustrate the purpose of this Agreement or its approval by the Court. The Parties further agree, subject to Court approval as needed, to reasonable extensions of time to carry out any of the provisions of this Agreement.

14.19 Protective Orders

All orders, settlement agreements and designations regarding the confidentiality of documents and information (“Protective Orders”) remain in effect, and all Parties and counsel remain bound to comply with the Protective Orders, including the provisions to certify the destruction of “Confidential” documents.

14.20 Confidentiality

The terms of this Agreement shall remain confidential until filed in the United States District Court for the District of New Jersey.

14.21 Binding on Successors

The Agreement shall be binding upon, and inure to the benefit of, the heirs, and Released Parties.

14.22 Arm’s-Length Negotiations

The determination of the terms and conditions contained herein and the drafting of the

provisions of this Agreement has been by mutual understanding after negotiation, with consideration by, and participation of, the Parties hereto and their counsel. This Agreement shall not be construed against any Party on the basis that the Party was the drafter or participated in the drafting. Any statute or rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in the implementation of this Agreement and the Parties agree that the drafting of this Agreement has been a mutual undertaking.

14.23 Waiver

The waiver by one Party of any provision or breach of this Agreement shall not be deemed a waiver of any other provision or breach of this Agreement.

14.24 Exhibits

All Exhibits to this Agreement are material and integral parts hereof, and are incorporated by reference as if fully rewritten herein.

14.25 Taxes

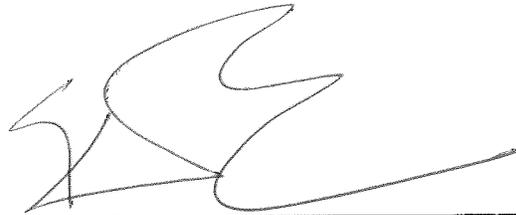
The Plaintiffs, Settlement Class Members, and Class Counsel receiving funds pursuant to this Agreement shall be solely responsible for filing all information and other tax returns necessary or making any tax payments related to funds received pursuant to this Agreement. The Parties provide no legal advice and make no representations to the Plaintiffs, Settlement Class Members, Spark Energy, Spark Energy's Counsel, or Class Counsel regarding the legal or tax consequences of this agreement, including any benefit or monies paid and received. The Plaintiffs, Settlement Class Members, and Class Counsel shall be solely responsible for any tax or legal consequences for any Benefit paid and/or received pursuant to this Agreement.

(Signature pages follow)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, as of the date and year first above written.

Dated this 11th day of July, 2022.

D. Greg Blankinship
Finkelstein, Blankinship, Frei-Pearson & Garber, LLP



Kevin P. Allen
Duane Morris LLP

Janet Rolland
On Behalf of Plaintiff and the Proposed Settlement Class



Spark Energy, LLC and Spark Energy Gas, LLC

By: MIKE BARAJAS

Michael Harty
On Behalf of Plaintiff and the Proposed Settlement Class

Title: CFO

On Behalf of Defendants, Spark Energy, LLC and Spark Energy Gas, LLC

IUE-CWA Local 901
By: _____
Title: _____

On Behalf of Plaintiff, IUE-CWA Local 901 and the Proposed Settlement Class

Becky Burger
On Behalf of Plaintiff and the Proposed Settlement Class

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, as of the date and year first above written.

Dated this 11th day of July, 2022.

D. Greg Blankinship
Finkelstein, Blankinship, Frei-Pearson & Garber, LLP



Janet Rolland
On Behalf of Plaintiff and the Proposed Settlement Class

Michael Harty
On Behalf of Plaintiff and the Proposed Settlement Class

IUE-CWA Local 901

By: _____

Title: _____

On Behalf of Plaintiff, IUE-CWA Local 901 and the Proposed Settlement Class

Becky Burger
On Behalf of Plaintiff and the Proposed Settlement Class

Kevin P. Allen
Duane Morris LLP

Spark Energy, LLC and Spark Energy Gas, LLC

By: _____

Title: _____

On Behalf of Defendants, Spark Energy, LLC and Spark Energy Gas, LLC

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, as of the date and year first above written.

Dated this 11th day of July, 2022.

Greg Blankinship
D. Greg Blankinship
Finkelstein, Blankinship, Frei-Pearson & Garber, LLP

Kevin P. Allen
Duane Morris LLP

Janet Rolland
On Behalf of Plaintiff and the Proposed Settlement Class

Spark Energy, LLC and Spark Energy Gas, LLC

Michael Harty
Michael Harty
On Behalf of Plaintiff and the Proposed Settlement Class

By: _____
Title: _____

On Behalf of Defendants, Spark Energy, LLC and Spark Energy Gas, LLC

IUE-CWA Local 901

By: _____
Title: _____

On Behalf of Plaintiff, IUE-CWA Local 901 and the Proposed Settlement Class

Becky Burger
Becky Burger
On Behalf of Plaintiff and the Proposed Settlement Class

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, as of the date and year first above written.

Dated this 11th day of July, 2022.

D. Greg Blankinship
Finkelstein, Blankinship, Frei-Pearson & Garber, LLP

Kevin P. Allen
Duane Morris LLP

Janet Rolland
On Behalf of Plaintiff and the Proposed Settlement Class

Spark Energy, LLC and Spark Energy Gas, LLC

By: _____

Michael Harty
On Behalf of Plaintiff and the Proposed Settlement Class

Title: _____

On Behalf of Defendants, Spark Energy, LLC and Spark Energy Gas, LLC



IUE-CWA Local 901

By: Jonathan Flueckiger

Title: President

On Behalf of Plaintiff, IUE-CWA Local 901 and the Proposed Settlement Class

Becky Burger
On Behalf of Plaintiff and the Proposed Settlement Class