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January 11, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
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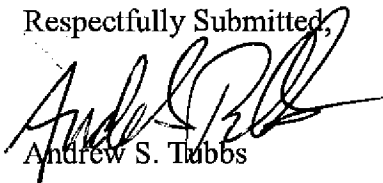
**RE: Application of Columbia Gas of Pennsylvania, Inc. For Approval of the
Abandonment of Service by Columbia Gas to One (1) Natural Gas Service
Customer Located in Greene County, Pennsylvania - Docket No. A-2011-2276780
Joseph Lucey v. Columbia Gas of Pennsylvania, Inc. - Docket No. C-2011-2248370**

Dear Secretary Chiavetta:

Enclosed for electronic filing is the Main Brief of Columbia Gas of Pennsylvania, Inc. for the above-referenced proceeding.

Copies will be provided as indicated on the Certificate of Service.

Respectfully Submitted,



Andrew S. Tubbs

AST/jl

Enclosures

cc: Honorable Katrina L. Dunderdale
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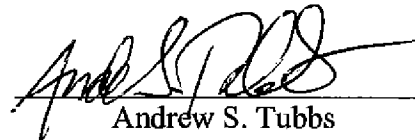
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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Date: January 11, 2013



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Columbia Gas of Pennsylvania, Inc. For Approval of the Abandonment of Service by Columbia Gas to One (1) Natural Gas Service Customer Located in Green County, Pennsylvania : : Docket No. A-2011-2276780

Joseph Lucey : :
v. : : Docket No. C-2011-2248370
Columbia Gas of Pennsylvania, Inc. : :

**MAIN BRIEF
OF
COLUMBIA GAS OF PENNSYLVANIA, INC.**

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I. INTRODUCTION AND PROCEDURAL HISTORY

On June 24, 2011, Mr. Joseph T. Lucey (“Mr. Lucey”) filed a formal complaint with the Pennsylvania Public Utility Commission (“Commission”) against Columbia Gas of Pennsylvania, Inc. (“Columbia”).¹ The Complaint was docketed at Docket No. C-2011-2248370. In his Complaint, Mr. Lucey raises a number of allegations related to Columbia’s June 1, 2011 emergency termination of service to 107 West Furman Highway, Wind Ridge, Pennsylvania 15380 (the “Lucey Residence”).

On July 14, 2011, Columbia filed an Answer and New Matter to the Complaint, wherein Columbia stated that service to the Lucey Residence was properly terminated in accordance with Section 56.98 of the Commission’s regulations due to an occurrence endangering the safety of the Lucey Residence. Specifically, Columbia explained that it was informed by its interstate gas supplier, Columbia Gas Transmission, LLC (“Transmission”), that Transmission had ceased the flow of gas to the transmission pipeline providing gas to the Lucey Residence because of a leak on the transmission pipeline. On November 16, 2011, the Commission issued a Hearing Notice scheduling an initial telephonic hearing on the Complaint to take place on December 19, 2011. On November 16, 2011, the Honorable Katrina L. Dunderdale (the “ALJ”) issued a Prehearing Order scheduling an initial telephonic hearing for December 19, 2011.

On December 5, 2011, Columbia filed an *Application for Approval of Abandonment of Service by Columbia Gas of Pennsylvania, Inc. to One (1) Natural Gas Service Customer Located in Greene County, Pennsylvania* (“Abandonment

¹ Joseph T. Lucey is the customer of record at the Lucey Residence. However, Mr. Mark R. Lucey, the brother of Joseph Lucey, signed the verification for the Complaint and supplied an executed Durable Power of Attorney with Mr. Lucey’s Answer to Columbia’s *Application for Approval for the Abandonment of Service by Columbia Gas to One (1) Natural Gas Service Customer in Greene County, Pennsylvania*. Therefore, all references to “Mr. Lucey” refer to Joseph T. Lucey and Mark R. Lucey.

Application”). The Abandonment Application was docketed at Docket No. A-2011-2276780.

By its Abandonment Application, Columbia requests Commission approval to abandon gas service to the same Lucey Residence identified in the Complaint. Columbia sought to abandon service because Transmission had concluded it would not repair or replace the transmission pipeline providing service to the Lucey Residence, and because the cost for Columbia to construct new facilities to connect to Columbia’s nearest distribution facilities was uneconomical. Concurrent with the filing of its Abandonment Application, on December 5, 2011, Columbia also filed a Motion to Consolidate Mr. Lucey’s Complaint with the Abandonment Application. Per the request of Mr. Lucey’s counsel for a continuance, on December 13, 2011, the ALJ issued a First Interim Order cancelling the initial telephonic hearing on the Complaint.

On January 3, 2012, Columbia filed a Proof of Publication of Notice related to its Abandonment Application with the Commission.

On January 4, 2012, the ALJ issued a Second Interim Order granting Columbia’s Motion to Consolidate the Application with the Formal Complaint. On January 5, 2012, the Commission issued a Hearing Notice scheduling an Initial Prehearing Conference by telephone on February 10, 2012. On January 6, 2012, the ALJ issued a Prehearing Conference Order.

On January 19, 2012, Mr. Lucey filed an Answer to Columbia’s Abandonment Application. On February 3, 2012, Columbia filed its prehearing memorandum. On February 8, 2012, Columbia filed Preliminary Objections to the Answer of Joseph Lucey to Columbia’s Abandonment Application (“Answer”). On February 15, 2012, the ALJ

issued a Prehearing Order establishing a litigation schedule and denying Columbia's Objections to Mr. Lucey's Answer.

On June 1, 2012, Columbia filed direct testimony. On August 7, 2012, the ALJ conducted the Initial Hearing in these proceedings. On August 8, 2012, the ALJ issued a Third Interim Order, directing the parties to serve additional written direct testimony and scheduling a subsequent hearing.

On August 16, 2012, the ALJ issued a Fourth Interim Order directing the parties to serve surrebuttal on or before October 1, 2012. On September 21, 2012, Columbia served additional direct testimony. Mr. Lucey served his written direct testimony on September 28, 2012. On October 2, 2012, a subsequent hearing was held in this matter. On December 4, 2012, the ALJ issued a Briefing Order providing for the filing of Main Briefs on January 11, 2013 and Reply Briefs on January 26, 2013.

II. SUMMARY OF ARGUMENT

In the complaint portion of this case, Mr. Lucey alleges that on June 1, 2011, Columbia improperly terminated residential gas service to the Lucey Residence. Mr. Lucey contends that the leak that occurred on or about June 1, 2011 was not an emergency situation that necessitated the immediate termination of Columbia's residential service to the Lucey Residence, without first filing an application with the Commission and receipt of Commission approval. To meet his burden of proof, Mr. Lucey must demonstrate, by a preponderance of the evidence that Columbia failed to act reasonably in terminating residential service to the Lucey Residence on an emergency basis. However, it was reasonable and necessary for Columbia to terminate service to the Lucey Residence on an emergency basis, and thus Mr. Lucey has failed to meet his burden of proof.

Mr. Lucey was served by a direct tap off of an interstate transmission pipeline (“Line 954”), a 100 year old bare steel pipeline owned and operated by Transmission. On or about June 1, 2011 a leak was discovered on Line 954 that provided gas service to the Lucey Residence. Transmission investigated the leak, and concluded that the transmission pipeline was leaking into a stream and needed to be taken out of service immediately. Transmission notified Columbia of the emergency situation and Columbia immediately locked Mr. Lucey’s meter. Mr. Lucey seeks to support his Complaint by alleging that the June 1, 2011 leak did not constitute an emergency because a prior leak on Line 954 was repaired by Transmission and did not result in a cessation of service to the Lucey Residence. However, Transmission’s prior decisions to repair the line are not relevant to the reasonableness of Columbia’s emergency termination of service to the Lucey Residence on June 1, 2011. Once Transmission decided to cease delivery of gas on Line 954, Columbia had to immediately terminate service to the Lucey Residence.

Based upon Transmission’s decision to cease permanently all operation of Line 954, Columbia filed its Abandonment Application requesting Commission approval to permanently abandon residential gas service to the Lucey Residence. For the Commission to approve Columbia’s Abandonment Application, the Commission must determine that the abandonment of service to the Lucey Residence is in the public interest. As addressed in detail below, Columbia has successfully carried its burden.

Columbia has presented record evidence in this proceeding demonstrating that: (1) the Lucey Residence was served directly off of an interstate transmission pipeline owned by Transmission; (2) the Company’s Commission-approved tariff specifically provides for such service and that such service is at the sole discretion of the transmission line owner; (3) the interstate transmission pipeline that served the Lucey

Residence, Line 954, was a 10,000 foot, 100 year old, bare steel interstate transmission pipeline that had become perpetually unsafe and was permanently removed from service by Transmission; (4) the Lucey Residence is the only Columbia customer served off of Line 954; (5) the significant costs associated with extending Columbia's existing distribution facilities to serve the Lucey Residence are not economically justified; (6) the Lucey Residence has been successfully converted to propane, and (7) the Company offered to compensate Mr. Lucey for the cost incurred to convert to propane.

III. STATEMENT OF FACTS

Columbia initiated service to Mr. Lucey on January 1, 2010 when Mr. Lucey moved into the Lucey Residence, which was purchased by his brother Mark Lucey, who purchased the family from his parents in 2005. (Columbia Statement No. 1, p. 3; Tr. 14.) However, Columbia did not provide residential gas service to the Lucey Residence via distribution facilities owned and operated by the Company. (*Id.*) Instead, consistent with Section 8.1(b) of the Company's Commission-approved tariff, Columbia provided the Lucey Residence with residential gas service from gas transported by Transmission on a pipeline owned and operated by Transmission and regulated by the Federal Energy Regulatory Commission ("FERC"). (Columbia Statement No. 1, p. 3; Columbia Statement No. 2, pp. 3-4.) As explained by Columbia witness Davis, Transmission is an interstate pipeline engaged in the business of transporting natural gas in interstate commerce and is subject to regulation by the FERC. (Columbia Statement No. 2, p. 3.) Transmission provides storage and firm transportation service to Columbia pursuant to Transmission's publically available tariff approved by the FERC. (*Id.*) However, Transmission does not provide service to end-use customers like Mr. Lucey. (*Id.*)

Specifically, Columbia served the Lucey Residence off of a “mainline tap” of Transmission Line 954, wherein Columbia both took ownership of gas transported by Transmission at Columbia’s meter, and provided retail service to Mr. Lucey. (Columbia Statement No. 1, p. 3.) Line 954 is located both in Richhill Township, Greene County, Pennsylvania and Liberty and Cameron Districts, Marshall County, West Virginia and is an approximately 10,000 foot steel coupled 10” main owned by Transmission. (Columbia Statement No. 2, p. 3.) Line 954 was connected to another Transmission main in West Virginia, from which gas was provided. (Tr. 190.) The line was put into service in 1905. (Columbia Statement No. 2, p. 3.) Historically Line 954 has been used by Transmission to transport natural gas in interstate commerce from 1971 to present, including to transport gas on Line 954 to Columbia, which in turn provided retail service through a transmission mainline tap to Mr. Lucey. (Columbia Statement No. 2, p. 4.) The Lucey Residence was the only Columbia customer served off of Line 954. (Columbia Statement No. 1, p. 5.) As explained by Columbia witness Krajovic, it is not uncommon in the rural areas of Columbia’s service territory for customers like Mr. Lucey to be served in this fashion. (Columbia Statement No. 1, p. 3.) Customers like Mr. Lucey are commonly described as “mainline tap” customers because the facilities owned by the Company to provide such service are limited to a gas meter used for measuring gas consumption and a shutoff valve. (Columbia Statement No. 1, p. 3; Tr. 230.) That is, Columbia’s service is provided by tapping an interstate transmission line, like Line 954, or a production line. In the western part of Pennsylvania, the customer then is responsible for installing and maintaining a service line from Columbia’s meter to the residence. (66 Pa. C.S. § 1510.) Columbia provides service to customers like Mr. Lucey

pursuant to Section 8.1(b) of Columbia's Commission approved tariff. Section 8.1(b) of Columbia's tariff provides:

In rural areas, where service is not available directly from the Company, service may be provided from a transmission or production line. It is the sole discretion of the owner of the transmission or production line to allow service from their facilities to the customer. If connection is allowed, the Company's service connection will consist of a tap on the line and a service valve.

(Exhibit NJDK-2.)

Columbia provided residential gas service to Mr. Lucey until June 1, 2011 when Columbia received notice from Transmission of an emergency situation involving Line 954. (Columbia Statement No. 1, p. 3.) As explained by Columbia witness Krajovic, and as evidenced in the "Executed Work Order Detail", which are Columbia's business records relative to the June 1, 2011 emergency call from Transmission, Transmission reported gas blowing into a stream on Transmission's Line 954 and that there was "no gas in the main per [Transmission]." (Columbia Statement No. 1, p. 4; Exhibit NJDK-3.) Based upon the report from Transmission, Columbia dispatched a crew to terminate service and the Company "locked and plated" its meter at the mainline tap of Line 954. (*Id.*)

As explained by Columbia witness Krajovic, the phrase "locked and plated" refers to the placement of a blind plate over the inlet valve to seal and restrict flow of gas through the meter. Then the meter is locked with a locking device. (Columbia Statement No. 1, p. 4.) This procedure is done as a safety precaution when the Company disconnects or terminates natural gas service. (*Id.*) By locking and plating the meter when terminating service, Columbia seeks to eliminate the potential for any stray gas that might be lingering in the pipeline to migrate into the residence. (Tr. 92.)

The call to Columbia relative to the emergency came from Transmission, and Columbia's only knowledge at that time consisted of Transmission's notice that gas was blowing on Line 954 that resulted in Transmission shutting down its line. (Columbia Statement No. 1, p. 4.) The Columbia work order was issued in a Transmission employee's name because as a result of the emergency situation Columbia did not have information immediately available to identify the impacted account(s) (*Id.*) However, the following day, on June 2, 2011, Columbia was in contact with Mr. Lucey. (*Id.*) Specifically, Mr. Lucey contacted Columbia to report that he was without gas service. Columbia's call center representative informed Mr. Lucey that the Company would dispatch a service person to investigate. (*Id.*) The individual who processed the dispatch recognized the location, and Columbia called Mr. Lucey and left a message indicating that his gas service was turned off due to no gas in Transmission's Line 954. (Columbia Statement No. 1, p. 4.) The account was then updated to indicate that the emergency order from the previous day impacted the Lucey residence. (*Id.*)

On June 3, 2011, a call took place between representatives from Columbia and Transmission. (Tr. 95.) It was on this call that Columbia was informed of prior leaks on Line 954 in December 2010 and March 2011. (Tr. 96.) Prior to the notice from Transmission on June 1, 2011, Columbia was not aware of any prior operational problems on Line 954. (Exhibit NJDK-3; Tr.127-128.) The facts related to leaks on Line 954 that were communicated to Columbia during the June 3, 2011 call with Transmission were memorialized in a letter from Transmission to Columbia on November 18, 2011. (Tr. 97; Exhibit NJDK-1, Attachment A.) The November 18, 2011 letter detailed the history of the prior leaks on Line 954 and of Transmission's decision

to permanently remove Line 954 from service due to the “multiple safety and pipeline integrity issues” on Line 954. (*Id.*)

Based upon Transmission’s determination to cease all operation of Line 954, on June 3, 2011, Columbia sent a “Notice of Termination” letter to Mr. Lucey via overnight mail. (Exhibit NJDK-1, Attachment B.) The letter explained the nature of Columbia’s service to the Lucey Residence via Transmission’s FERC-regulated Line 954. In addition, the letter also informed Mr. Lucey that the natural gas service to his home was terminated due to the immediate safety concerns on Line 954. Further, Columbia’s June 3, 2011 letter informed Mr. Lucey of Transmission’s decision to permanently discontinue operation of Line 954 due to ongoing safety concerns related to chronic leaks as a result of longwall mining near Line 954, including a leak believed to be located in a nearby stream bed. (*Id.*) Mr. Lucey was also informed that he would be contacted by a representative from Transmission to discuss temporary service and possible conversion to an alternative fuel.² In addition, Columbia’s letter informed Mr. Lucey that his service from Columbia would not be permanently abandoned prior to Columbia’s receipt of the required regulatory approvals from the Commission.

Prior to filing its Abandonment Application, Columbia investigated the possibility of extending its distribution facilities to the Lucey Residence in order to continue to provide service to Mr. Lucey following Transmission’s decision to cease operating Line 954. (Columbia Statement No. 1, pp. 5-6.) Based upon its investigation, the Company determined that it could not justify the cost of extending its facilities to the Lucey

² As explained by Columbia witness Davis, it is common for interstate transmission line owners to engage “mainline tap” customers regarding possible conversion due to the real property interests between the transmission line owner and the property owner. (Tr. 155-157.) Consistent with Columbia’s June 3, 2011 letter, Transmission contacted Mr. Lucey after it took Line 954 out of service on June 1, 2011. (Exhibit NJDK-1, Attachment A)

Residence. (Columbia Statement No. 1, p. 6.) Specifically, Columbia concluded that to extend its existing facilities to the Lucey Residence would require the Company to install approximately 28,000 feet of new distribution facilities from its existing facilities to the Lucey Residence. (Tr. 257; Columbia Statement No. 3, p. 3.) The cost to construct these facilities would be approximately \$2.9 million.³ (Columbia Statement No. 3, p. 4.)

In assessing the economics associated with extending its facilities to the Lucey Residence, Columbia evaluated the potential revenues associated with the new facilities to determine whether the potential revenues could support the required plant investment. (Columbia Statement No. 1, pp. 6-7.) Columbia concluded that such an extension could not be justified. Mr. Lucey is the only account affected by Transmission's decision to cease operating Line 954. (Columbia Statement No. 1, p. 5.) Mr. Lucey's annual gas consumption for the twelve-month period covering 2010 generated less than \$500 of annual total distribution revenues. (Columbia Statement No. 1, p. 6.) Based upon the limited revenue potential associated with extending its facilities to the Lucey Residence, Columbia determined that such an extension would result in a substantial revenue deficiency. For these reasons, Columbia concluded that it was not in the best interest of Columbia or its other ratepayers to extend its distribution facilities in order to continue to provide residential gas service to the Lucey Residence. (Columbia Statement No. 1, p. 7.)

³ Columbia initially provided an estimate of 21,799 feet at a cost of approximately \$2 million to extend its existing distribution facilities to the Lucey Residence. (Columbia Statement No. 1, p. 6; Exhibit NJDK-1.) However, the Company revised its original calculations because the Company implemented a new Geographic Information System, which makes it easier to identify the precise distance of an extension of this length. (Columbia Statement No. 3, p. 4.) The route originally evaluated by the Company was a direct route from Columbia's distribution facilities to the Lucey Residence. (*Id.*) However, as explained by Columbia witness White, having completed further evaluation of possible routes, the Company has determined that a pipeline route following S.R. 21 (West Roy Furman Highway) rather than a cross-country route is the most efficient and best route to use if the Company were to extend its facilities to the Lucey Residence. (Tr. 237.)

There are alternative fuel sources available to Mr. Lucey, including oil, propane, electricity and wood. (Columbia Statement No. 1, p. 8.) Columbia and Mr. Lucey attempted to resolve the conversion of the Lucey Residence to an alternative fuel but were unable to reach an agreement on the appropriate level of compensation to defray his costs to convert from natural gas to an alternative fuel. (*Id.*)

In its Abandonment Application, Columbia suggested, based upon prior Commission decisions, that, should the Commission condition a grant of abandonment with a payment to Mr. Lucey relative to his costs to convert his home, that the Commission not approve an amount greater than \$3,437.10. (Exhibit NJDK-1, Page 6 of the Application for Approval of Abandonment.) Columbia originally suggested \$3,437.10 because it is the greater of (a) three times the total of the customer's last 12 months of actual bills or (b) 1.5 times an average of the last two 12-month periods. (Columbia Statement No. 1, p. 9.) However, during the discovery process in this proceeding, Columbia learned that Mr. Lucey had successfully converted the residence to propane at a cost of \$1,535.52. (Exhibit NJDK-4; Tr. 145.) Based upon this fact, Columbia revised its original recommendation and requested, should the Commission grant its Abandonment Application subject to the condition that the Company contribute to the conversion costs to convert the Lucey Residence, that the Commission limit the payment to Mr. Lucey's actual cost for conversion -- \$1,535.52. (Columbia Statement No. 1, p. 10; Exhibit NJDK-4.)

IV. LEGAL STANDARDS

A. FORMAL COMPLAINT

Section 332(a) of the Public Utility Code, 66 Pa.C.S. § 332(a), provides that the party seeking a rule or order from the Commission has the burden of proof in that

proceeding. It is well established that “[a] litigant’s burden of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of evidence which is substantial and legally credible.” *Samuel J. Lansberry, Inc. v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. 1990); *see also In Re: Pa. PUC v. Jackson Sewer Corporation*, Docket Nos. R-00005997, et al., 2001 Pa. PUC LEXIS 53 at *9 (September 28, 2001). The preponderance of evidence standard requires proof by a greater weight of the evidence. *Commonwealth v. Williams*, 557 Pa. 207, 732 A.2d 1167 (1999). However, the Commonwealth Court has explained that:

Once it is determined that the complainant has made out his *prima facie* case, the burden of going forward shifts to the utility, but the ultimate burden of persuasion remains with the complainant. The Commission must measure the weight and credibility of all the evidence, and simply because the ratepayer has presented a *prima facie* case does not obligate the Commission to credit this evidence or to give it any special weight. If the utility presents evidence found to be of co-equal (or greater) weight with that of the complainant, the complainant will not have met his burden of proof.

Milkie v. Pa. Pub. Util. Comm’n, 768 A.2d 1217, 1220 (Pa. Cmwlth. 2001). Thus, in the context of a formal complaint proceeding, the complainant bears the ultimate burden of persuasion, which must be satisfied by a preponderance of the evidence.

A public utility is permitted to discontinue service to a customer, without personal contact, when required to prevent or alleviate an emergency in the case of danger to life or property. 66 Pa.C.S. § 1503(b). Where a public utility honestly and reasonably believes there is an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without prior written notice. 52 Pa. Code § 56.98 (2008). (*Loretta Warren v.*

Duquesne Light Company, 2005 Pa. PUC LEXIS 7(2005)) For reasons explained below, Columbia was clearly justified in terminating service to the Lucey Residence without prior notice.

B. ABANDONMENT APPLICATION

Before a public utility may abandon service to the public, the utility must first apply for, and obtain, a certificate of public convenience. Section 1102(a)(2) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(2). Section 1103(a) of the Public Utility Code, 66 Pa.C.S. § 1103(a), defines the general standard by which the Commission determines whether to grant a certificate of public convenience:

A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public. The commission, in granting such certificate, may impose such conditions as it may deem to be just and reasonable.

For the Commission to grant approval of a public utility's voluntary relinquishment of its franchise right, the Commission must determine that such abandonment is in the public interest. *Pennsylvania Railroad Company v. Pa. P.U.C.*, 146 A.2d 352, 356 (Pa. Superior Ct. 1959), *vacated on other grounds*, 396 Pa. 34, 152 A.2d 422 (1959). As the party seeking affirmative relief from this Commission, Columbia bears the burden of proof. 66 Pa.C.S. § 332(a).

Among the factors the Commission considers in assessing whether the public convenience and necessity will be served by any proposed abandonment are: (1) the availability of supply; (2) the economics of maintaining the system; (3) the number of customers affected; (4) the availability of alternative fuels and/or suppliers; (5) the costs of converting to alternate fuels or suppliers; and (6) the allocation of such costs. *Able*

Company, Ltd., 1996 Pa. PUC LEXIS 108, 23 (1996); Re Leechburg Gas Company, 66 Pa. P.U.C. 29 (1988); and Re Victor Gas Company, 49 Pa. P.U.C. 649 (1976); Application of National Fuel Gas Distribution Corporation for Approval of Abandonment of Service, Docket No. A-121850F2023 (Order entered March 26, 2003). For the reasons set forth below, Columbia has successfully carried its burden and its Abandonment Application should be approved.

V. ARGUMENT

A. COLUMBIA PROPERLY TERMINATED SERVICE TO THE LUCEY RESIDENCE ON JUNE 1, 2011

Columbia's emergency termination of service to the Lucey Residence on June 1, 2011 was proper as it was consistent with the Commission's regulations and in accordance with the Company's Commission-approved tariff.

In his Complaint Mr. Lucey asserts that on June 1, 2011, Columbia improperly disconnected service to the Lucey Residence. However, Mr. Lucey's assertion is incorrect as demonstrated by the record evidence in this proceeding.

Columbia's termination of gas service to the Lucey Residence was proper. On June 1, 2011, after being informed by the owner and operator of Line 954 of an emergency situation on the line and that the owner of Line 954 intended to cease the flow of gas on the facility, Columbia properly terminated service pursuant to Section 56.98 of the Commission's regulations. 52 Pa. Code § 56.98. On June 1, 2011, Section 56.98 provided:

When a service termination is based on an occurrence which endangers the safety of any person or may prove harmful to the energy delivery system of the utility, the utility may terminate service without written notice so long as the utility honestly and reasonably believes grounds to exist. At the time of termination, the utility shall make a bona fide

attempt to deliver a notice of termination to a responsible person at the affected premises and, in the case of a single, meter, multiunit dwelling, shall conspicuously post the notice at the dwelling, including common areas where permissible.⁴

52 Pa. Code § 56.98 (2008).

Columbia met the standards for an emergency termination of service under Section 56.98. Mr. Lucey has not contested the fact that he received residential natural gas service from Columbia off of the interstate facilities owned and operated by Transmission. Mr. Lucey does not challenge the fact that Transmission is an interstate pipeline, or a “natural gas company,” as defined in the Natural Gas Act (“NGA”), engaged in the business of transporting natural gas in interstate commerce and not regulated by the Commission. Further, Mr. Lucey has not challenged Columbia’s existing tariff Section 8.1(b) that provides that service to “mainline tap” customers is provided at the sole discretion of the transmission pipeline owner. Instead, Mr. Lucey has challenged whether an emergency situation existed to warrant Columbia’s termination of service to the Lucey Residence on June 1, 2011 without prior notice or a prior Commission order. However, the record evidence in this proceeding demonstrates that Columbia had definitive grounds to terminate service on an immediate basis. Upon receipt of notice from Transmission, an interstate pipeline and the owner and operator of Line 954, of an emergency situation on Line 954 and of Transmission’s decision to cease gas service on Line 954, Columbia properly dispatched a crew to lock and plate the meter. Columbia had, and has, no basis to dispute Transmission’s determination to

⁴ Columbia notes that Section 56.98 of the Commission’s regulations was subsequently amended by a Commission rulemaking that became effective on October 8, 2011. *Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14; General Review of Regulations*, Docket No. L-00060182 (Order June 13, 2011); effective October 8, 2011, 41 Pa.B. 5473. The authority relied upon by Columbia on June 1, 2011, is now found under Section 56.71 of the Commission’s regulations. 52 Pa. Code § 56.71.

cease delivery of gas on the line. Indeed, Columbia's decision to immediately terminate service on the mainline tap was prudent based upon the owner and operator of the facility informing Columbia that because of a leak involving gas blowing into a stream, Transmission had ceased gas service on the line. At that time, Columbia's only option was to lock and plate the meter to ensure the safety of its customers and its system. (Tr. 125.) The Commission has recognized the need for public utilities to immediately terminate customers without prior notice, as Columbia did on June 1, 2011. *Loretta Warren v. Duquesne Light Company*, 2005 Pa. PUC LEXIS 7 (2005) (utility action to immediately terminate service due to the existence of unsafe conditions service without prior notice was reasonable); *Marvin Elias v. PECO Energy Company*, 2008 Pa. PUC LEXIS 1229(2008) (utility response to immediately terminate service without personal contact with customer due to a dangerous situation caused by a ruptured gas line was appropriate.)

Columbia also promptly notified Mr. Lucey of the need to terminate service. Because Columbia was notified by Transmission of the need to immediately terminate service to a mainline tap in the geographic vicinity of the leak, Columbia was not immediately aware that service was terminated specifically to the Lucey Residence. However, by the next day, Columbia verbally informed Mr. Lucey of the termination, and followed up with a written notice.

Mr. Lucey has attempted to challenge Columbia's decision to terminate service on June 1, 2011 by presenting testimony about a prior leak on Line 954 that, in Mr. Lucey's opinion, was more severe in nature but was fixed by Transmission without terminating service to the Lucey Residence. (Tr. 41; Lucey Statement No. 1, p. 1.) However, for purposes of Mr. Lucey's Complaint, whether Transmission made the proper decision to

terminate gas service to Line 954 is not for the Commission to decide. Transmission's provision of service is regulated by FERC, not the Commission. For purposes of this proceeding, the June 1, 2011 leak that, as reported to Columbia by Transmission, involved an open gas leak and resulted in Transmission deciding to cease gas service on June 1, 2011 is all that is relevant to Columbia's termination. The prior leak noted by Mr. Lucey and the March 2011 leak identified by Columbia witness Davis on Line 954⁵ is not relevant to Columbia's decision to terminate on June 1, 2011. Indeed, as is clear from the record in this proceeding, Columbia was neither aware of any prior leaks nor did Mr. Lucey ever report such leaks to Columbia. (Tr. 83; Tr. 85.) However, even if Columbia had been aware of the repairs to such prior leaks, such information would not have caused Columbia to doubt that there was reasonable grounds to terminate service immediately on June 1, 2011. A report of gas blowing into a stream, from a transmission main operating at pressure of 20 pounds or more in the area of a mainline tap, is a clear issue of safety, and the pipeline operator made a judgment to cease service. (Tr. 190.) Columbia had no basis to dispute that decision, and once Transmission made that decision, it was incumbent on Columbia to react immediately to lock and plate the mainline tap. Failure of Transmission and Columbia to act would have risked safety to the persons and property, environmental harm and a possible explosion. Thus, prior decisions by Transmission to repair earlier leaks on Line 954 do not alter the fact that Columbia faced an emergency situation and no supply with which to serve the Lucey Residence on June 1, 2011.

In addition, Mr. Lucey presented testimony about prior discussions to convert the Lucey Residence to an alternative service. (Tr. 16-17; 23; and 51-53.) Mr. Lucey

⁵ (Columbia Statement No. 2, p. 5.)

named a number of individuals that he came in contact with but indicated that he was uncertain as to whether they were employees of Transmission or Columbia. (Tr. 14; 16; 23; and 52.) Columbia Witness Davis identified the individuals named by Mr. Lucey as employees of Transmission. (Tr. 154; Tr. 157.) Further, Columbia Witnesses Krajovic and Davis each testified that vehicles and employees for both Columbia and Transmission are clearly identifiable. (Tr. 86; Tr. 158.) It is unclear what the purpose of such testimony is. Indeed, Columbia and Transmission, although affiliated, are separate and distinct corporate entities that do not share common office space. (Tr. 87.) Further, as noted previously, Columbia was not aware, prior to June 3, 2011, of Transmission's discussions with Mr. Lucey relative to converting the Lucey Residence to an alternative fuel source. Although Columbia was not aware of such discussions at the time they occurred, testimony by a Transmission witness in this case makes clear that this was an antiquated line, subject to corrosion, and damaged from coal mining occurring in the area around the leaks. It is not surprising that Transmission has been seeking to terminate service on Line 954 under such circumstances. However, Mr. Lucey's prior discussions with Transmission employees are irrelevant to the emergency situation that required Columbia's termination of Mr. Lucey's service on June 1, 2011.

Finally, Mr. Lucey presented evidence relative to the extent of longwall mining that occurred under the property where the Lucey Residence is located and in the general vicinity of his property in Greene County, Pennsylvania and across the state border in West Virginia. (Tr. 28-31; Lucey Statement No. 1, pp. 4-5.) During his testimony Mr. Lucey stated that longwall mining operations on his property in Greene County, Pennsylvania where the Lucey Residence is located have now ceased. (Tr. 30.) For purposes of Mr. Lucey's Complaint, the testimony about the current status of

longwall mining in and around the Lucey Residence is irrelevant to the issue of whether Columbia reasonably believed there was a situation that required the immediate termination of service to the Lucey Residence. However, as explained by Columbia witness Davis, the impacts of the prior longwall mining activities resulted in Transmission's decision to permanently remove Line 954 from service. When asked about the impacts of prior longwall mining activities on Line 954, Mr. Davis replied:

[Transmission] has experienced multiple, recurring safety and pipeline integrity issues on Line 954. In 2009, Consolidated Coal Company ("CONSOL") notified [Transmission] that CONSOL was proceeding with longwall mining in the area of Line 954. [Transmission] immediately began negotiations in the summer of 2010 to convert Joseph Lucey's natural gas service to propane. Then, in December 2010, the Lucey property was undermined by CONSOL causing subsidence to Line 954 and a significant safety issue. That is, the longwall mining in the area of the Lucey property resulted in the movement of the ground underneath Line 954, and additional leaks on the [Transmission] facilities. [Transmission] personnel responded that same day and spent hours putting a temporary fix in place for the pipeline. And in March 2011, [Transmission] experienced [a leak] on Line 954 which it again repaired. Finally, [Transmission] experienced the leaks in late May 2011 that resulted in the emergency termination of service.

(Columbia Statement No. 2, pp. 4-5; Tr. 177.) Due to these prior leaks, Transmission concluded that Line 954 has been rendered perpetually unsafe by ongoing subsurface mining in the area. (*Id.* at 5.) These prior leaks, coupled with the ongoing safety issues associated with Line 954, a 100-year old bare steel line providing Columbia with gas to serve a single residential customer in Pennsylvania, clearly explain Transmission's conclusion to not reinstate or replace Line 954. (*Id.*) However, regardless of the reasons that led Transmission to determine to permanently remove Line 954 from service following the June 1, 2011 emergency situation, Columbia cannot be held responsible for Transmission's decision. As addressed above, Columbia does not own or operate Line

954. The “mainline tap” service provided to Mr. Lucey by Columbia off of Line 954, per the Company’s approved tariff, is at the sole discretion of Transmission.

For the reasons set forth above, Columbia’s action to terminate Mr. Lucey’s service on June 1, 2011 was proper, consistent with the Commission regulations. Therefore, Mr. Lucey’s Complaint should be denied.

B. COLUMBIA’S ABANDONMENT APPLICATION SHOULD BE APPROVED

Columbia has demonstrated that approval of its Abandonment Application is in the public interest. First, Columbia has presented uncontested record evidence that Columbia’s nearest existing distribution facilities are located over five miles away from the Lucey Residence. Second, Mr. Lucey has presented no evidence to contradict the Company’s conclusion that the cost of extending Columbia’s facilities to provide residential gas service to the Lucey Residence is not economical. Third, Mr. Lucey was the only customer affected by Transmission’s decision to permanently take Line 954 out of service. Fourth, the evidence demonstrates that Mr. Lucey has successfully converted his home to propane. Finally, the record establishes that Mr. Lucey was able to make his conversion at a reasonable cost and that Columbia and its existing customers should not be required to pay costs above the actual costs incurred to convert the Lucey Residence. For these reasons and for the additional reasons set forth below, Columbia’s Abandonment Application should be granted because it is the public interest and in the interest of Columbia’s other customers.

As addressed in the testimony of Columbia witness Krajovic, prior to filing its Abandonment Application, Columbia investigated the possibility of extending its distribution facilities to the Lucey Residence in order to continue to provide service to

Mr. Lucey following Transmission's decision to cease operating Line 954. (Columbia Statement No. 1, pp. 5-6.) Although Columbia has existing distribution facilities in Greene County, based upon its investigation, the Company determined that it could not justify the cost of extending its facilities to the Lucey Residence. (Columbia Statement No. 1, p. 6.) Specifically, Columbia witness White testified that in order for Columbia to extend its existing facilities to the Lucey Residence, the Company would have to install approximately 28,000 feet of four-inch plastic pipe from its existing facilities located near the intersection of State Route 21 (West Roy Furman Highway) and Rush Road to the Lucey Residence. (Tr. 257; Columbia Statement No. 3, p. 3.) This route depicted on Exhibit NWW-2 represents the closest distance from the Lucey Residence to Columbia's existing distribution facilities. (Columbia Statement No. 3, p. 4.) The cost to construct these facilities would be approximately \$2.9 million. (*Id.*)

In assessing whether the Company could justify the costs to extend its facilities to the Lucey Residence, Columbia had to determine whether the potential revenues associated with the new facilities could support the required plant investment. Columbia concluded that such an extension could not be justified. Mr. Lucey is the only customer affected by Transmission's decision to cease operating Line 954. (Columbia Statement No. 1, p. 5.) Mr. Lucey's annual gas consumption for the twelve-month period covering 2010 was 93.1 Mcf, and the total distribution revenue derived by Columbia was \$422.80. (Columbia Statement No. 1, p. 6.) Based upon the limited revenue potential associated with extending its facilities to the Lucey Residence,

Columbia determined that such an extension would result in a revenue deficiency of at least \$230,000 per year.⁶ (*Id.*)

Once Columbia determined that it could not justify constructing new facilities to serve Mr. Lucey, the Company determined that it would proceed to seek Commission approval to abandon its existing service to the Lucey Residence. (Columbia Statement No. 1, pp. 5-6.) As explained by Columbia witness Krajovic, when Columbia determines that it is necessary to seek Commission approval to abandon its facilities, the Company attempts to negotiate an appropriate level of compensation to assist in converting a customer's home to an alternative heating source. (Columbia Statement No. 1, p. 7.) In the case of Mr. Lucey, alternative heating sources include oil, propane, electricity and wood. (Columbia Statement No. 1, p. 8.) Columbia and Mr. Lucey attempted to resolve the conversion of the Lucey Residence to an alternative fuel. However, Columbia and Mr. Lucey were not able to reach an agreement on the appropriate level of compensation to defray his costs to convert from natural gas to an alternative fuel. (*Id.*)

As addressed by Columbia witness Krajovic, in its Abandonment Application Columbia noted that the Public Utility Code authorizes the Commission to impose on

⁶ Columbia's estimated revenue deficiency of \$229,557 associated with extending its existing distribution facilities to the Lucey Residence stems from the Company's original analysis that estimated 21,799 feet of mainline at a cost of approximately \$2 million. (Columbia Statement No. 1, p. 6; Exhibit NJDK-1.) However, as noted above, the Company revised its calculation of the length of new facilities required to extend to the Lucey Residence to approximately 28,000 feet at a cost of approximately \$2.9 million. (Columbia Statement No. 3, p. 4) As explained by Columbia witness White, since the time Columbia filed its Abandonment Application and Columbia witness Krajovic's written direct testimony, Columbia has implemented a new Geographic Information System, which makes it easier to identify the precise distance of an extension of this length. (*Id.*) The route originally evaluated by the Company was a direct route from Columbia's distribution facilities to the Lucey Residence. (*Id.*) However, as explained by Columbia witness White, having completed further evaluation of possible routes, the Company has determined that a pipeline route following S.R. 21 (West Roy Furman Highway) rather than a cross-country route is the most efficient and best route to use if the Company were to extend its facilities to the Lucey Residence. (Tr. 237.) Regardless of the route used to evaluate the economics of extending the Company's existing distribution facilities to the Lucey Residence, the significant costs associated with such an extension cannot be justified based upon the limited revenue potential associated with continuing residential gas service to the Lucey Residence.

the grant of a certificate to abandon such conditions as it may deem to be just and reasonable. (Columbia Statement No. 1, p. 9.) Columbia suggested that, should the Commission condition a grant of abandonment with a payment to Mr. Lucey relative to his costs to convert his home, that the Commission not approve an amount greater than \$3,437.10. (*Id.*) Consistent with Columbia's review of other abandonment proceedings before the Commission, Columbia applied the formulaic approach used by the Commission to arrive at buy-out costs when actual costs are disputed or unavailable. (*Application of Equitable Gas Company*, Docket No. A-2008-2027716 (Order entered March 9, 2009).) Based upon this formulaic approach, Columbia originally suggested \$3,437.10 because it is the greater of (a) three times the total of the customer's last 12 months of actual bills or (b) 1.5 times an average of the last two 12-month periods. (*Id.*)

However, during the discovery process in this proceeding, Columbia learned that Mr. Lucey had successfully converted the residence to propane. (Exhibit NJDK-4.) Indeed, during the hearing Mr. Lucey confirmed that on or about June 6, 2011 the Lucey Residence was converted from natural gas to propane. (Tr. 71.) Further, through discovery in this proceeding Columbia learned that Mr. Lucey converted his home to propane at a cost of \$1,535.52. (Exhibit NJDK-4; Tr. 145.) This actual cost is substantially less than the amount generated by the formulaic approach, and the actual cost represents a fair compensation to Mr. Lucey.

At hearing Mr. Lucey indicated his preferred method to heat his home was with a geothermal heat pump. (Tr. 54.) However, as explained by Columbia witness Krajovic, while the Company would evaluate the potential for converting a customer to a geothermal heat pump, traditionally propane has proven to be the most cost efficient alternative fuel source. (Tr. 145; Tr. 85.) Columbia witness Krajovic explained that

“cost effective” is measured by the cost of the installation. (Tr. 86.) Although Mr. Lucey’s preferred method for heating his home is geothermal, the Commission has acknowledged that full compensation for the cost of conversion is not a prerequisite for Commission approval of an abandonment application, and indeed, the Commission has repeatedly declined to order utilities seeking abandonment to compensate customers the full or actual amount it will cost them to convert. See, e.g., *Groff v. North Penn Gas*, 77 Pa. P.U.C. 203 (1992) (ordering gas company to pay \$1,000 to each of the affected customers despite one complainant testifying that the cost to convert would total \$2,000); *Application of National Fuel Gas Distribution Corporation*, Docket No. A-121850F2011 (Order entered March 20, 1997) (directing utility to contribute \$4,304 to help defray the cost of converting to propane even though the affected customer requested \$10,000 to cover expenses); *Able Company, Ltd*, 1996 Pa. P.U.C. LEXIS 108 (1996) (ordering utility to pay \$500.00 to each of seven customers to defray conversion costs); *Application of National Fuel Gas Distribution Corporation*, Docket No. A-121850F2014 (Order entered January 7, 1998) (ordering gas company to pay customer \$4,750 to help defray costs of converting to propane despite customer’s request that utility fully reimburse his cost of \$10,702 to obtain natural gas service from another supplier).

It is clear from these prior Commission decisions that it is not a prerequisite that Columbia provide Mr. Lucey with the full amount of his conversion costs if he elects to convert his home from propane to geothermal heat pump. The Commission has previously found it unreasonable for a customer to insist the utility to fully reimburse for costs to obtain a certain alternative fuel when other less expensive alternative energy sources were available. *National Fuel*, Docket No. A-121850F2011 (Initial Decision at

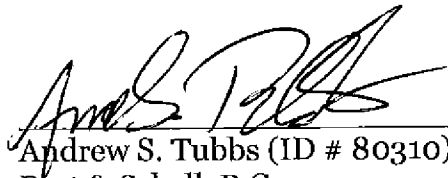
28). Indeed, the record in this proceeding is devoid of any evidence as to the cost to convert the Lucey Residence to a geothermal heat pump. However, to require Columbia and its other customers to compensate Mr. Lucey to install a geothermal heat pump, Columbia's other customers will pay for what Columbia contributes toward Mr. Lucey's cost of conversion. (Tr. 85.) For these reasons, Columbia, consistent with prior Commission decisions, has limited its contribution for customer conversions to the most cost effective option and even then it is not guaranteed to be the full price of the conversion. (*Id.*)

Based upon the record evidence in this proceeding, Columbia recommends that should the Commission grant its Abandonment Application subject to the condition that the Company contribute to the conversion costs to convert the Lucey Residence, that the Commission limit the payment to Mr. Lucey's actual cost for conversion -- \$1,535.52. (Columbia Statement No. 1, p. 10; Exhibit NJDK-4.)

VI. CONCLUSION

WHEREFORE, for the foregoing reasons, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Honorable Katrina Dunderdale and the Pennsylvania Public Utility Commission enter an order: (1) denying the relief requested in the Formal Complaint of Joseph T. Lucey at Docket No. C-2011-2248370; and grant Columbia Gas of Pennsylvania, Inc.'s Application for Approval of the Abandonment of Service by Columbia Gas to One (1) Natural Gas Service Customer Located in Greene County, Pennsylvania at Docket No. A-2011-2276780.

Respectfully submitted,



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Attorneys for Columbia Gas of Pennsylvania, Inc.

APPENDIX A

Proposed Findings of Fact

Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) proposes the following findings of fact:

1. On June 24, 2011, Mr. Joseph T. Lucey (“Mr. Lucey”) filed a formal complaint with the Pennsylvania Public Utility Commission (“Commission”) against Columbia Gas of Pennsylvania, Inc. (“Columbia”) raising issues related to Columbia’s June 1, 2011 emergency termination of service to 107 West Furman Highway, Wind Ridge, Pennsylvania 15380 (the “Lucey Residence”).

2. On July 14, 2011, Columbia filed an Answer and New Matter to the Complaint, wherein Columbia stated that service to the Lucey Residence was properly terminated in accordance with Section 56.98 of the Commission’s regulations due to an occurrence endangering the safety of the Lucey Residence.

3. Columbia was informed by its interstate gas supplier, Columbia Gas Transmission, LLC (“Transmission”), that Transmission had ceased the flow of gas to the transmission pipeline providing gas to the Lucey Residence because of a leak on the transmission pipeline.

4. On December 5, 2011, Columbia filed an *Application for Approval of Abandonment of Service by Columbia Gas of Pennsylvania, Inc. to One (1) Natural Gas Service Customer Located in Greene County, Pennsylvania* (“Abandonment Application”). (Exhibit NJDK-1.)

5. By its Abandonment Application, Columbia requests Commission approval to abandon gas service to the same Lucey Residence identified in the Complaint.

6. Columbia sought to abandon service because Transmission had concluded it would not repair or replace the transmission pipeline providing service to the Lucey Residence, and because the cost for Columbia to construct new facilities to connect to Columbia's nearest distribution facilities was uneconomical.

7. Columbia initiated service to Mr. Lucey on January 1, 2010 when Mr. Lucey moved into the Lucey Residence, which was purchased by his brother Mark Lucey, who purchased the family from his parents in 2005. (Columbia Statement No. 1, p. 3; Tr. 14.)

8. Columbia did not provide residential gas service to the Lucey Residence via distribution facilities owned and operated by the Company. (Columbia Statement No. 1, p. 3; Tr. 14.)

9. Consistent with Section 8.1(b) of the Company's Commission-approved tariff, Columbia provided the Lucey Residence with residential gas service from gas transported by Transmission on a pipeline owned and operated by Transmission and regulated by the Federal Energy Regulatory Commission ("FERC"). (Columbia Statement No. 1, p. 3; Columbia Statement No. 2, pp. 3-4.)

10. It is not uncommon in the rural areas of Columbia's service territory for customers like Mr. Lucey to be served in this fashion. (Columbia Statement No. 1, p. 3.)

11. Columbia served the Lucey Residence off of a "mainline tap" of Transmission Line 954 ("Line 954"), wherein Columbia both took ownership of gas

transported by Transmission at Columbia's meter, and provided retail service to Mr. Lucey. (Columbia Statement No. 1, p. 3.)

12. Transmission is an interstate pipeline engaged in the business of transporting natural gas in interstate commerce and is subject to regulation by the FERC. (Columbia Statement No. 2, p. 3.)

13. Transmission provides storage and firm transportation service to Columbia pursuant to Transmission's publically available tariff approved by the FERC. (Columbia Statement No. 2, p. 3.)

14. Transmission does not provide service to end-use customers like Mr. Lucey. (Columbia Statement No. 2, p. 3.)

15. Line 954 is located both in Richhill Township, Greene County, Pennsylvania and Liberty and Cameron Districts, Marshall County, West Virginia and is an approximately 10,000 foot steel coupled 10" main owned by Transmission. (Columbia Statement No. 2, p. 3.)

16. Line 954 was connected to another Transmission main in West Virginia, from which gas was provided. (Tr. 190.)

17. Line 954 was put into service in 1905. (Columbia Statement No. 2, p. 3.)

18. Historically Line 954 has been used by Transmission to transport natural gas in interstate commerce from 1971 to present, including to transport gas on Line 954 to Columbia, which in turn provided retail service through a transmission mainline tap to Mr. Lucey. (Columbia Statement No. 2, p. 4.)

19. The Lucey Residence was the only Columbia customer served off of Line 954. (Columbia Statement No. 1, p. 5.)

20. Customers like Mr. Lucey are commonly described as “mainline tap” customers because the facilities owned by the Company to provide such service are limited to a gas meter used for measuring gas consumption and a shutoff valve. (Columbia Statement No. 1, p. 3; Tr. 230.)

21. Section 8.1(b) of Columbia’s tariff provides that service provided from a transmission line is at the sole discretion of the owner of the transmission line to allow service from their facilities to the customer. (Exhibit NJDK-2.)

22. Columbia provided residential gas service to Mr. Lucey until June 1, 2011 when Columbia received notice from Transmission of an emergency situation involving Line 954. (Columbia Statement No. 1, p. 3.)

23. On June 1, 2011, Columbia received an emergency call from Transmission reporting gas blowing into a stream on Transmission’s Line 954 and that there was “no gas in the main per [Transmission].” (Columbia Statement No. 1, p. 4; Exhibit NJDK-3.)

24. Based upon the report from Transmission, Columbia dispatched a crew to terminate service and the Company “locked and plated” its meter at the mainline tap of Line 954. (*Id.*)

25. The phrase “locked and plated” refers to the placement of a blind plate over the inlet valve to seal and restrict flow of gas through the meter. Then the meter is locked with a locking device. (Columbia Statement No. 1, p. 4.) This procedure is done as a safety precaution when the Company disconnects or terminates natural gas service. (Columbia Statement No. 1, p. 4.)

26. By locking and plating the meter when terminating service, Columbia seeks to eliminate the potential for any stray gas that might be lingering in the pipeline to migrate into the residence. (Tr. 92.)

27. The call to Columbia relative to the emergency came from Transmission, and Columbia's only knowledge at that time consisted of Transmission's notice that gas was blowing on Line 954 that resulted in Transmission shutting down its line. (Columbia Statement No. 1, p. 4.)

28. The Columbia work order was issued in a Transmission employee's name because as a result of the emergency situation Columbia did not have information immediately available to identify the impacted account(s) (Columbia Statement No. 1, p. 4.).

29. On June 2, 2011, Columbia was in contact with Mr. Lucey, when he contacted Columbia to report that he was without gas service. Columbia's call center representative informed Mr. Lucey that the Company would dispatch a service person to investigate. (Columbia Statement No. 1, p. 4.).

30. Columbia processed the dispatch and called Mr. Lucey and left a message indicating that his gas service was turned off due to no gas in Transmission's Line 954. (Columbia Statement No. 1, p. 4.).

31. The account was then updated to indicate that the emergency order from the previous day impacted the Lucey residence. (Columbia Statement No. 1, p. 4.)

32. On June 3, 2011, Columbia was informed of prior leaks on Line 954 in December 2010 and March 2011. (Tr. 95-96.)

33. By letter dated November 18, 2011, Transmission memorialized the June 3, 2011 discussions, including a detailed history of prior leaks on Line 954 and of

Transmission's decision to permanently remove Line 954 from service due to the "multiple safety and pipeline integrity issues" on Line 954. (Tr. 97; Exhibit NJDK-1, Attachment A.)

34. Prior to the notice from Transmission on June 1, 2011, Columbia was not aware of any prior operational problems on Line 954. (Exhibit NJDK-3; Tr.127-128.)

35. On June 3, 2011, Columbia was informed that Transmission had determined to permanently discontinue service on Line 954 due to ongoing safety concerns related to chronic leaks as a result of longwall mining near Line 954, including a leak believed to be located in a nearby stream bed. (Exhibit NJDK-1, Attachment B.)

36. On June 3, 2011, Columbia sent a "Notice of Termination" letter to Mr. Lucey via overnight mail. (Exhibit NJDK-1, Attachment B.)

37. The "Notice of Termination" letter informed Mr. Lucey that the natural gas service to his home was terminated due to the immediate safety concerns on Line 954. In addition, Columbia's June 3, 2011 letter informed Mr. Lucey of Transmission's decision to permanently discontinue operation of Line 954 due to ongoing safety concerns related to chronic leaks as a result of longwall mining near Line 954, including a leak believed to be located in a nearby stream bed. (Exhibit NJDK-1, Attachment B.)

38. Columbia's June 3, 2011 "Notice of Termination" letter also informed Mr. Lucey that his service from Columbia would not be permanently abandoned prior to Columbia's receipt of the required regulatory approvals from the Commission. (Columbia Statement No. 1, p. 5.)

39. Prior to filing its Abandonment Application, Columbia investigated the possibility of extending its distribution facilities to the Lucey Residence in order to

continue to provide service to Mr. Lucey following Transmission's decision to cease operating Line 954. (Columbia Statement No. 1, pp. 5-6.)

40. Columbia concluded that to extend its existing facilities to the Lucey Residence would require the Company to install approximately 28,000 feet of new distribution facilities from its existing facilities to the Lucey Residence. (Tr. 257; Columbia Statement No. 3, p. 3.)

41. The cost to construct these facilities would be approximately \$2.9 million. (Columbia Statement No. 3, p. 4.)

42. Columbia evaluated the potential revenues associated with the new facilities to determine whether the potential revenues could support the required plant investment. (Columbia Statement No. 1, pp. 6-7.)

43. Mr. Lucey's annual gas consumption for the twelve-month period covering 2010 generated less than \$500 of annual total distribution revenues. (Columbia Statement No. 1, p. 6.)

44. Based upon the limited revenue potential associated with extending its facilities to the Lucey Residence, Columbia determined that such an extension would result in a revenue deficiency of at least \$230,000 per year. (Columbia Statement No. 1, p. 6.)

45. Columbia concluded that such an extension could not be justified. (Columbia Statement No. 1, p. 6.)

46. There are alternative fuel sources available to Mr. Lucey, including oil, propane, electricity and wood. (Columbia Statement No. 1, p. 8.)

47. Columbia and Mr. Lucey attempted to resolve the conversion of the Lucey Residence to an alternative fuel but were unable to reach an agreement on the

appropriate level of compensation to defray his costs to convert from natural gas to an alternative fuel. (Columbia Statement No. 1, p. 8.)

48. Traditionally propane has proven to be the most cost efficient alternative fuel source. (Tr. 145; Tr. 85.)

49. On or about June 6, 2011 the Lucey Residence was successfully converted from natural gas to propane. (Tr. 71.)

50. Mr. Lucey converted his home to propane at a cost of \$1,535.52. (Exhibit NJDK-4; Tr. 145.)

APPENDIX B

Proposed Conclusions of Law

Columbia Gas of Pennsylvania, Inc. (“Columbia” or the “Company”) proposes the following conclusions of law:

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. See, 66 Pa.C.S. §§ 501, et seq; 66 Pa.C.S. § 701.

2. Mr. Lucey, as the complainant at Docket No. C-2011-2248370 carries the burden of proving Columbia failed to provide reasonable and adequate service when it terminated natural gas service in June 2011. 66 Pa.C.S.A. § 1501.

3. Complainant carries the burden of proving Columbia failed to provide reasonable and adequate service when it terminated natural gas service in June 2011 due to the existence of an emergency situation resulting in the cessation of gas service on the interstate transmission line serving the Complainant’s residence by the transmission line operator. 66 Pa.C.S.A. § 1501.

4. Columbia’s decision to terminate service to the complainant’s residence in June 2011 without prior notice was reasonable and required because it was done, without notice, to remedy an immediate emergency situation. 66 Pa.C.S. § 1503(b); 52 Pa. Code § 56.98 (2008).

5. Columbia had reasonable grounds to conclude that an emergency existed because no gas was available to serve the Lucey residence due to Transmission’s decision to cease delivery of gas on Line 954.

6. Complainant failed to prove Columbia did not provide reasonable and adequate service when it terminated service to his residence due the cessation of gas

service by the transmission line operator to the line from which he received natural gas service. 66 Pa.C.S. § 1501.

7. As the party seeking affirmative relief in the application at Docket No. A-2011-2276780, Columbia bears the burden of proving that abandonment of natural gas service to Mr. Lucey is in the public interest. *See*, 66 Pa.C.S. §§ 332(a) & 1102(a)(2).

8. Columbia has satisfied its burden of proving that approval of this application is necessary or proper for the service, accommodation, convenience and safety of the public. *See*, 66 Pa.C.S. § 1103 (a).

9. Under the circumstances, approval of this application is conditioned upon Columbia compensating Mr. Lucey \$1,535.52 as compensation for the costs of converting his residence from natural gas to propane. *See*, 66 Pa.C.S. § 1103 (a).