

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joseph Lucey	:	C-2011-2248370
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	
Application for Approval of	:	A-2011-2276780
Abandonment of Service to One (1)	:	
Natural Gas Service Customer Located in	:	
Greene County, Pennsylvania	:	

REPLY BRIEF OF JOSEPH LUCEY

I. SUMMARY OF THE ISSUES ADDRESSED IN THE REPLY BRIEF

1. Joseph Lucey is the customer of Columbia Gas of Pennsylvania (hereafter “CGP”). Beginning in 2009, Columbia Gas Transmission (hereafter “CGT”) began negotiations with Mark R. Lucey (hereafter “M. Lucey”) to terminate gas service being delivered through its gas line to Joseph Lucey, the customer. After the termination of service, neither CGT nor CGP contacted or even attempted to contact Joseph Lucey, the customer. CGP completely failed in its duty to deal with the customer in this situation. (See pages 8-16 of Main Brief of Columbia Gas of Pennsylvania, hereafter “CGP’s Main Brief.)
2. CGP investigated the cost of providing alternate service to Joseph Lucey by evaluating the cost of extending a new line from its “distribution facilities” near Wind Ridge, Pennsylvania. CGP delayed until

July 2011 to initiate this analysis and did not consider any alternative sources of gas for the customer. (See pages 9-11 of CGP's Main Brief.)

3. CGP as a public utility has clear responsibility to make sure the gas facilities do not present a safety threat to the customers and to the public. In spite of its obligation, CGP has taken no steps to verify whether the proper safety measure had been taken at the Lucey residence in light of the known and anticipated longwall mining subsidence that occurred. CGP was not even concerned enough to require CGT to report to it the occurrence of subsidence induced leakage affecting a CGP customer. And, CGP completely abdicated its responsibility to assure safe gas service to the customer after the subsidence occurred and after the gas source was shut off by CGT. (See CGP's Main Brief at pages 16-20.)

II. DISCUSSION

1. COLUMBIA GAS OF PENNSYLVANIA, INC. FAILED TO CONTACT THE CUSTOMER

Columbia Gas of Pennsylvania, Inc. (Hereafter "CGP") is the applicant at A-2011-2276780 and is seeking approval to terminate service at the Joseph Lucey residence at 107 Roy Furman Highway, Wind Ridge, Pennsylvania. Joseph Lucey is the customer of CGP. After the termination of service on June 1, 2011, neither CGT nor CGP contacted or even attempted to contact Joseph Lucey, the customer. CGP completely failed in its duty to deal with the customer in this situation.

CGP's termination of natural gas service with no good faith effort to provide alternate service was effectuated under conditions

and circumstances which are clearly in violation of the Public Utility Code (Code), [66 Pa. C.S. § 1102\(a\)\(1\)](#); § 1501, *et al.*, and Commission regulations. Section 1501 requires the public utility to deal directly with the utility customer and not the property owner. A public utility engaged in the business of providing gas service to the public has a duty to take all reasonable steps to provide safe, continuous, and reasonable service to its customers; and to notify its customers as soon as possible of the cause and expected duration of an unplanned cessation of service. 52 Pa. Code §56.71 (2 and 3). This includes a duty of personal and telephone contact with the customer. 52 Pa. Code §56.71 (3). In spite of these clear directives, the customer, Joseph Lucey, was never contacted.

2. **COLUMBIA GAS OF PENNSYLVANIA, INC. FAILED TO MAKE REASONABLE EFFORTS TO RESTORE SERVICE**

While CGP investigated the cost of providing alternate service by extending a new line from its “distribution facilities” near Wind Ridge, Pennsylvania, CGP delayed until July 2011 to initiate this analysis. CGP did not consider any alternative sources of gas for the customer, even though there were numerous sources of gas in the area. And CGP did not take steps to provide a conversion to propane and provide propane to Joseph Lucey pending PUC approval of abandonment of service.

Upon referencing 66 Pa. C.S. § 1501 - Character of service and facilities, it is clear that CGP violated the duties owed by a utility to, *inter alia*, its customers pursuant to Section 1501. (See generally *Harris v. UGI Utilities, Inc.*, 2004 WL 1151528 (2004). CGP has the duty under the

Code to provide reasonable service that is reasonably continuous and without unreasonable interruptions and delay. While CGP may suspend service temporarily due to dangerous conditions not caused by the company (See *Petition of Columbia Gas of Pennsylvania, Inc. for Declaratory Order*, PUC Docket No, P-000930734 entered September 14, 1995), it may not abandon service without a certificate of public convenience. 66 Pa. C. S. 1102(a). And, because CGP has not received a certificate of public convenience authorizing abandonment, CGP must maintain “adequate, efficient, safe and reasonable service and facilities” and make such improvements as are necessary to maintain those facilities. When an unplanned interruption of service is necessary, safe service must be restored as quickly as possible. 52 Pa. Code 56.71(4). (See Conclusion of Law No. 2 in *Zudjelovic v. National Utilities, Inc. Mountainhome Division*, 1995 WL 945175 (Pa. P.U.C.)

Indeed, if CGP’s position on the safety issue or the lack of an alternative source of gas being available are found to be correct, CGP should have converted the Lucey property to propane. If CGP were truly concerned about safety and truly intent on following the Code, it would have taken the responsibility for the conversion rather than pass it off to CGT or permit Mr. Lucey to perform the conversion. And CGP should have arranged for delivery of propane at a cost equal to the cost of natural gas until such time as a certificate of public convenience is obtained. (See “*Initial Decision*” in *Harris v. UGI, Inc.* at C-20032233 and C-20042659

as filed on August 19, 2004.) While CGP assured Joseph Lucey it would not permanently abandon service prior to receiving PUC approval (see Exhibit NJDK-1), in fact CGP did abandon service and all its duties and responsibilities to the customer, Joseph Lucey on June 1, 2011.

3. CGP Abdicated Its Safety Responsibility to Joseph Lucey

As has been noted, CGP has an ongoing duty to the customer, Joseph Lucey, to provide adequate, efficient, safe and reasonable service and facilities. However, when CGT shut off the supply of gas, CGP washed its hands of any further responsibility to the customer. CGP never followed up with an onsite visit to the Lucey residence other than to lock and plate the meter. CGP never contacted the Luceys again about their gas supply needs. CGP never checked the Lucey residence for any unsafe conditions that could have been caused by the subsidence that ruptured Line 954. CGP deferred to CGT, not a PUC regulated entity, to provide a conversion to propane. And, CGP acquiesced to Mark Lucey performing the conversion to propane himself.

All of the above failures to act are in clear violation of the Code's mandate that the "utility" be responsible for the safety of the customer. Joseph Lucey remains the "customer" of CGP to this date and until there is a PUC order issued permitting abandonment. Yet, CGP has abandoned Joseph Lucey without a single consideration for his and his family's ongoing safety. (It is both ironic and disturbing that CGP seeks to limit its "contribution" toward conversion to the \$1,535.52 spent by Mark Lucey.

That would truly be rewarding CGP for its violations of the PUC Code.)

III. CONCLUSION

The Pennsylvania Public Utility Code places duties and responsibilities on the “utility.” In this case CGP made no effort to carry out the duties or responsibilities. CGP’s only excuse is that it relied on CGT to make the evaluations, provide the contacts, make decisions about public safety and ultimately make the decision on whether or not the Luceys should receive gas service. CGP has completely abdicated its duties and responsibilities under the Pennsylvania code.

For the reasons stated, it is requested that the Complaint of Joseph Lucey be granted and the Application of Columbia Gas of Pennsylvania be denied. Columbia Gas of Pennsylvania should be fined \$100.00 per day from June 1, 2011 until gas service is re-instated by providing an alternate natural gas source. The Luceys should be reimbursed all their energy costs in excess of what their energy costs would have been if natural gas were their fuel.

Dated: January 25, 2013

/ss/ David C. Hook, Esquire
Pa. I.D. No. 27028
Hook & Hook
P.O. Box 792
189 West High Street
Waynesburg, PA 15370
Phone: 724-627-6146
Fax: 724-852-1620

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Joseph Lucey	:	C-2011-2248370
	:	
v.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	
	:	
Columbia Gas of Pennsylvania, Inc.	:	
Application for Approval of	:	A-2011-2276780
Abandonment of Service to One (1)	:	
Natural Gas Service Customer Located in	:	
Greene County, Pennsylvania	:	

CERTIFICATE OF SERVICE

I, David C. Hook, Esquire hereby certify that I served a copy of the within
REPLY BRIEF FOR JOSEPH LUCEY the 25th day of January, 2013, by U.S. Mail, first
class, postage prepaid, upon the following:

Andrew S. Tubbs, Esquire
Post & Schell
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601

Kimberly Cuccia, Esquire
Nisource Coporation Services Co
Suite 100
121 Champion Way
Canonsburg, PA 15317

/ss/ David C. Hook, Esquire
Pa. I.D. No. 27028
Hook & Hook
P.O. Box 792
189 West High Street
Waynesburg, PA 15370
Phone: 724-627-6146
Fax: 724-852-1620