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September 9, 2013

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265


**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 Green 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 filing are the Exceptions of Columbia Gas of Pennsylvania, Inc. for the above-referenced proceedings. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Andrew S. Tubbs

AST/jl
Enclosures

cc: Honorable Katrina L. Dunderdale (*Via E-Mail & First Class Mail*)
Certificate of Service

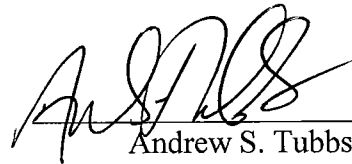
CERTIFICATE OF SERVICE

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).

VIA E-MAIL & FIRST CLASS MAIL

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Date: September 9, 2013



Andrew S. Tubbs

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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

**EXCEPTIONS OF
COLUMBIA GAS OF PENNSYLVANIA, INC.**

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Date: September 9, 2013

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I. BACKGROUND

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”). The Complaint was docketed at Docket No. C-2011-2248370. In his Complaint, Mr. Lucey raised 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.¹ Specifically, Columbia explained that it was informed by its upstream interstate gas transmission provider, Columbia Gas Transmission LLC (“Transmission”), that Transmission had ceased the flow of gas to the interstate transmission pipeline (“Line 954”) providing gas to Columbia to serve the Lucey Residence because of a leak on the interstate transmission pipeline.² 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.

¹ On June 1, 2011, Section 56.98 provided that, “[w]hen 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.” 52 Pa. § 56.98 (2008). 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.

² As explained later in these Exceptions, the Lucey Residence is a “mainline tap” customer of Columbia.

On December 5, 2011, Columbia filed an Application for Approval of Abandonment of Service to One (1) Natural Gas Service Customer Located in Greene County, Pennsylvania (“Abandonment Application”). The Abandonment Application was docketed at Docket No. A-2011-2276780.

By its Abandonment Application, Columbia requested 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 interstate 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. Consistent with the ALJ's December 4, 2012 Briefing Order, Columbia and Mr. Lucey filed Main Briefs on January 11, 2013 and Reply Briefs on January 26, 2013.

On July 18, 2013, the ALJ issued the Initial Decision ("ID"). The ID recommends approval of Columbia's Application for approval of abandonment of service to the Lucey Residence. The ID properly concluded that Columbia had met its burden of proving that abandonment of service to the Lucey Residence was justified because: 1) Transmission terminated Columbia's source of supply; 2) the Lucey Residence was the only customer served via Transmission's Line 954; and 3) the cost to extend service from Columbia's closest facilities was not justified by the revenues received from the Lucey Residence. The ID correctly recommended that Columbia pay Mr. Lucey \$3,437.10 as a condition to abandonment of service. ID at 26. The ID also recommends that the Commission deny Mr. Lucey's complaint on the basis that Columbia terminated service consistent with its tariff and the Commission's rules. ID at 15, 27.

Columbia supports the conclusions and recommendations set forth in the ID. Columbia files these limited Exceptions to the ID to clarify and correct certain findings contained in the ID. For the reasons explained below, Columbia respectfully requests that the Commission adopt Columbia's Exceptions and revise the ID accordingly, and in all other respects adopt the ID.

II. EXCEPTIONS

Exception No. 1: The ID erred in concluding that Transmission was not responding to an emergency situation when it terminated gas deliveries on Line 954. (ID at 15)

Exception No. 2: The ID incorrectly states that Columbia was aware, prior to the emergency termination by Transmission, that there were earlier discussions between Columbia and Mr. Lucey regarding Transmission's desire to take the antiquated, 100 year old interstate transmission Line 954 out of service. (ID at 14-15)

Exception No. 3: The ID incorrectly states that evidence was not provided to support the approved \$3,437.10 conversion cost payment to Mr. Lucey. (ID at 22)

III. ARGUMENT

A. An Emergency Situation Existed on Columbia Transmission's Interstate Transmission Line 954

Prior to June 1, 2011, Columbia provided residential gas service to the Lucey Residence via a mainline tap (also commonly known as a "farm tap") off of an interstate transmission 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.) That is, Columbia did not provide service to the Lucey Residence through distribution facilities owned and operated by Columbia.

(Columbia Statement No. 1, p. 3; Tr. 14.) 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.) In fact, Section 8.1(b) of the Company's Commission-approved tariff authorizes Columbia to provide residential gas service from gas transported by interstate pipelines. This service is commonly referred to as a "mainline tap". (*Id.*; Tr. 230.) Through its "mainline tap" of Line 954, Columbia took ownership of gas transported by Transmission at Columbia's meter, and provided retail service to the Lucey Residence. (Columbia Statement No. 1, p. 3.)

The ID properly concludes that Columbia was authorized to terminate the service to the Lucey Residence on June 1, 2011, because 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. (ID at 15.) Indeed, upon receipt of notification from Transmission that it had ceased gas flow on Line 954, Columbia had to "lock and plate" Mr. Lucey's meter as a safety precaution. (Tr. 92; 105.) As explained by Columbia, 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.) Therefore, no gas service could be provided by Columbia through the meter, as there was no source of supply available.

Columbia does not except to the ID's determination that Columbia's June 1, 2011 termination of service to the Lucey Residence was permitted under the Company's Commission-approved tariff. (ID at 15.) However, Columbia does except to the ID's conclusion that:

Complainant is correct that the evidence – showing a serious natural gas leak on the pipeline on June 1, 2011 – was inconclusive and more than controverted by Complainant's evidence to the contrary. Complainant's evidence, taken in its totality and as seen through the prism of the utility's evidence, was more than sufficient to show Columbia Transmission's alleged assertion for why it terminated service off of Line 954 was incorrect.

Id.

Initially, Columbia notes that any conclusion regarding Transmission's decision on June 1, 2011 is not relevant to the issue of whether Columbia faced an emergency situation that day. The undisputed fact is that no gas was flowing on Line 954. Columbia had no choice but to lock and plate the meter to the Lucey Residence. However, as shown by the record evidence in this proceeding, the conclusion identified above is in error.

In this proceeding, Columbia has provided evidence that Mr. Lucey was served by a direct tap off of Line 954. Line 954 is an approximately 10,000 foot steel coupled 10" main owned by Transmission and operating at a pressure of 20 pounds or more. (Columbia Statement No. 2, p. 3; Tr. 190.) The line was put into service in 1905. (Columbia Statement No. 2, p. 3.) Further, Columbia presented evidence that on or about June 1, 2011, Transmission employees received a report of a leak on Line 954 and, following an investigation by Transmission, Transmission concluded that Line 954 was blowing gas into a stream and needed to be taken out of service immediately. (Columbia

Statement No. 2, p. 4; Tr. 175.) Further, the record provides that 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; Tr. 80.)

The ALJ appears to endorse Mr. Lucey's questions regarding the severity of the reported leak. However, Mr. Lucey has acknowledged that there was a leak on Line 954 in June 2011. (Lucey Statement No. I, p. 2.) In this case, Columbia received a report from its interstate transmission provider of gas blowing into a stream, from an interstate 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. 90-93; 190.) Columbia had no reason to question the interstate transmission line owner's declaration of an emergency on its facilities. (Tr. 83; 112-113.) Indeed, once Transmission made that decision, it was incumbent on Columbia to react immediately to lock and plate the mainline tap to protect the Lucey Residence. Failure of Transmission and Columbia to act would have risked safety to the persons and property, environmental harm and a possible explosion.

Therefore, for the reasons explained above and in Columbia's Main Brief and Reply Brief, the Commission should find that the ID's conclusion that Transmission was not acting in response to an emergency on Line 954 on June 1, 2011 is in error and revise the order accordingly.³

³ Although Columbia concurs with the ID's conclusion that Transmission's decisions regarding operation of its pipelines is subject to FERC's, and not this Commission's jurisdiction, there is no basis to suggest that Transmission's field personnel would report a safety emergency when one did not exist.

B. Columbia Was Not Contemporaneously Aware of Prior Negotiations Between Columbia Transmission and Mr. Lucey

The ID at page 14 implies that Columbia may have failed to take reasonable efforts to inform Mr. Lucey of his impending termination based upon an incorrect conclusion that Columbia “knew Columbia Transmission was discussing taking [Line] 954 out of service as far back as December 2010.” (ID at 14.) In support of this statement, the ID cites to Columbia Exhibit NJDK-1. As explained below, the ID’s reliance on Exhibit NJDK-1 to support this conclusion is misplaced.

At the outset, Columbia and Transmission, although affiliated, are separate and distinct corporate entities that do not share common office space. (Tr. 87.) It is not unusual that Transmission would not advise Columbia in advance regarding various business and operating matters. Further, as explained below, 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.⁴ 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. (Columbia Statement No. 2, pp. 4-5.) Based upon the deteriorated condition of this aged line, it is not surprising that Transmission had been seeking to terminate service on Line 954.

The Columbia exhibit referenced in the ID is Columbia’s Abandonment Application (Exhibit NJDK-1). At paragraph 14 of its Abandonment Application, Columbia notes that Mr. Lucey previously rejected multiple offers to convert his home

⁴ 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.)

to an alternative fuel. Columbia referenced Attachment A to the Application to Abandon, which contains a November 18, 2011 letter from Transmission to Columbia that discusses prior Transmission offers to Mr. Lucey to convert his home to an alternative fuel. (Exhibit NJDK-1, Attachment A, p. 1 of 6.) However, this November 18, 2011 letter was sent to Columbia after Columbia's June 1, 2011 termination of the Lucey Residence and specifically stated that its purpose was to memorialize Transmission's June 3, 2011 notification to Columbia of the safety issues related to Line 954 and Transmission's decision to permanently discontinue service on the line. Such letter is not evidence that Columbia was aware of Transmission's discussions with Mr. Lucey prior to the June 1, 2011 termination.

Columbia's lack of prior knowledge of the safety issues associated with Line 954 and Transmission's prior negotiations with Mr. Lucey is further supported by unrefuted testimony in this proceeding. Columbia witness Krajovic testified that, prior to the notice of an emergency from Transmission on June 1, 2011, Columbia was not aware of any prior operational problems on Transmission's Line 954. (Exhibit NJDK-3; Tr.127-128.) In addition, it was not until June 3, 2011, two days following Transmission's cessation of service of Line 954, that Columbia was informed of prior leaks on Line 954, Transmission's prior offers to convert the Lucey Residence to an alternative fuel source and Transmission's decision to permanently discontinue service on Line 954 due to ongoing safety concerns. (Tr. 95-96.) These 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.

For these reasons, the ID should be revised by the Commission to clarify that Columbia was not aware of prior safety issues regarding Line 954 prior to the emergency

termination of service on June 1, 2011 and that Columbia was not privy to the pre-June 2011 discussions between Transmission and Mr. Lucey.

C. Columbia Provided Support for the Company's Proposed Offer of a Conversion Cost Contribution of \$3,437.10

The ID states that Columbia did not provide an explanation for why Columbia initially proposed that the Commission approve a payment of \$3,437.10 to Mr. Lucey for the costs associated with converting the Lucey Residence to an alternative fuel supply. (ID at 22.) Such conclusion overlooks certain record evidence in this proceeding.

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, Attachment A, p. 1 of 6) 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.) Consistent with the Commission's prior decisions,⁵ Columbia used Mr. Lucey's gas consumption for the twelve-month period covering 2010 to calculate its original proposal.⁶ (Columbia Statement No. 1, p. 6.) Therefore, Columbia explained the basis for its original proposal for a conversion cost payment to Mr. Lucey.

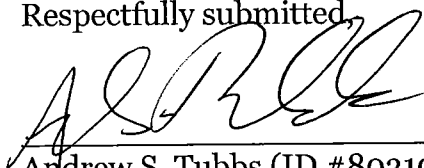
⁵ See, *Application of Equitable Gas Company*, Docket No. A-2008-2027716 (Order entered March 9, 2009).

⁶ The ID appears to question why Columbia did not provide evidence concerning "natural gas receipts for the more recent twelve-month periods (either 2011 or 2012)". (ID at 20.) However, as Columbia terminated service to the Lucey Residence on June 1, 2011, Columbia used Mr. Lucey's 2010 actual bills for purposes of calculating an appropriate conversion cost payment.

IV. CONCLUSION

For the foregoing reasons, the ID should be revised to affirmatively find that Transmission responded to a gas leak on Line 954 that constituted an emergency situation, which was the proximate cause of the June 1, 2011 termination of the Lucey Residence by Columbia. Further, the ID should be revised to remove the conclusion that Columbia was aware of prior negotiations between Transmission and Mr. Lucey prior to June 2011. Finally, the ID should be revised to conclude that Columbia provided support for its original proposal that Columbia pay no more than \$3,437.10 as a contribution toward the cost to convert the Lucey Residence to an alternative fuel. In all other respect, the ID should be affirmed.

Respectfully submitted,



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