

LARRY R. CRAYNE, PC
Attorney at Law

238 Johnston Road
Pittsburgh, PA 15241

lrcrayne@comcast.net

(412) 831-5462
(412) 425-4029

ELECTRONICALLY FILED

October 21, 2013

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Mike Kusturiss, Jr., v Columbia Gas of Pennsylvania, Inc.
Complaint Docket No. C-2013-2385910

Dear Ms. Chiavetta:

Enclosed is an electronically filed copy of the Preliminary Objections of Columbia Gas of Pennsylvania, Inc. to the above-captioned Formal Complaint. A copy of the document has been served on the Complainant.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry R. Crayne". The signature is fluid and cursive, with a large initial "L" and "C".

Larry R. Crayne

cc: David Bayard Wolf, Esq.
12 North Jefferson Avenue
Canonsburg, PA 15317

Commonwealth of Pennsylvania

Before the Pennsylvania Public Utility Commission

In the Matter of:

Mike Kusturiss, Jr.,
Complainant,

Complaint Docket
No. C-2013-2385910

VS.

Columbia Gas of Pennsylvania, Inc.,
Respondent.

Preliminary Objections

AND NOW comes Respondent, Columbia Gas of Pennsylvania, Inc., (Columbia Gas), pursuant to 52 *Pa. Code*, Section 5.101 (a) (4), and files the following Preliminary Objections:

A. Legal Insufficiency of Pleading

1. Complainant has filed a formal complaint with the Commission opposing the Columbia Gas demand that Complainant decide whether to receive 100% of his natural gas service requirements from either Columbia Gas or a privately owned natural gas well.

2. Columbia Gas avers that the terms of the applicable Columbia Gas tariff do no provide for backup distribution gas service and that Rate RSS is only available "...for the total requirements of any residential customer." Therefore, Columbia Gas avers Complainant must decide if he wishes to receive 100% of his natural gas requirements from Columbia Gas; otherwise, Columbia Gas requests permission to disconnect service to Complainant.

3. Columbia Gas further avers that the Columbia Gas refusal to provide back-up service does not require Complainant to "...give up the free gas that he currently receives from the well on his property." There is nothing to prevent Complainant from providing at his expense, as opposed to the expense of Columbia Gas and its customers, a number of other forms of back-up service to his privately owned gas well.

4. The language of the Columbia Gas Tariff Rate RSS is clear. A copy of Tariff Rate RSS is attached hereto as **Exhibit A**. A tariff is a set of operating rules imposed by the Commission that each public utility must follow in order to provide service to its customers. PPL Electric Utilities Corp. v. Pennsylvania Pub. Util. Comm'n, 912 A.2d 386 (Pa. Cmwlth. 2006) Each public utility must file a copy of its tariff with the Commission setting forth its rates, services, rules, regulations and practices so that the public may inspect its contents. 66 Pa. C.S. §1302; 52 Pa. Code §53.25; Philadelphia Suburban Water Co. v. Pennsylvania Pub. Util.

Comm'n, 808 A.2d 1044 (Pa. Cmwlth. 2002). Public utility tariffs must be applied consistent with their language. Public utility tariffs have the force and effect of law and are binding on the public utility and its customers. Pennsylvania Electric Co. v. Pennsylvania Pub. Util. Comm'n, 663 A.2d 281 (Pa. Cmwlth. 1995).

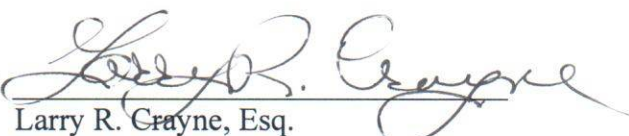
5. The Commission has no authority to allow a public utility to deviate from its tariff even where the Commission concludes it is in the public interest. Philadelphia Suburban Water Co. v. Pennsylvania Pub. Util. Comm'n, 808 A.2d 1044 (Pa. Cmwlth. 2002). A public utility may not charge a rate other than the rates set forth in its tariff. 66 Pa. C.S. §1303. Since the filed and approved Rate RSS is a tariff provision, having the force and effect of law, the language of Rate RSS requiring Complainant to receive 100% of his natural gas service requirements from Columbia Gas if he desires the continuance of service does not violate any provision of the Public Utility Code and does not constitute unreasonable service.

6. Therefore, Columbia Gas avers that Complainant's demand for back-up distribution gas service is contrary to the applicable Columbia Gas tariff filed with and approved by the Commission and is discriminatory against other customers who do not have access to "free" gas, thereby providing an unreasonable preference or advantage to Complainant, in violation of Section 1304 of the *Public Utility Code*.

8. Further, Columbia Gas avers that the *Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006* and Title 49 of the *Code of Federal Regulations*, Part 192, Subpart P thereunder, now requires that natural gas distribution utilities establish Distribution Integrity Management Programs (DIMP), that the Columbia Gas dual feed situations have been determined under the Columbia Gas DIMP to be a safety hazard and, therefore, Complainant's dual feed service is subject to immediate termination pursuant to Columbia Gas Tariff Rule 18.4 (5) and 56 Pa. Code, Section 56.98 (4) of the Commission's regulations.

Wherefore, Complainant having failed to allege any violation of any statute, regulation or order that the Commission has jurisdiction to administer, Columbia Gas is filing these Preliminary Objections requesting that this Complaint against Columbia Gas be dismissed for legal insufficiency. Since no factual issue pertinent to the resolution of this case exists, a hearing is unnecessary. The Respondent is entitled to judgment as a matter of law. Granting the Columbia Gas motion for summary dismissal of this Complaint is appropriate in these circumstances.

Respectfully submitted,
Columbia Gas of Pennsylvania, Inc.

By: 
Larry R. Crayne, Esq.

Columbia Gas of Pennsylvania, Inc. Canceling Fortieth and Forty-Second Revised Page No. 76

RATE RSS - RESIDENTIAL SALES SERVICE

APPLICABILITY

Throughout the territory served under this Tariff.

AVAILABILITY

Available, at one location, for the total requirements of any residential customer.

RATE

The customers under this rate schedule shall be subject to a Customer Charge, a Gas Supply Charge, a Distribution Charge, a Weather Normalization Adjustment, a Pass-through Charge and a Gas Cost Adjustment (when applicable). (C)

The rate information is detailed in the Rate Summary pages of this tariff.

If a customer transfers to this rate from Rate RDS-Residential Distribution Service then for a period of twelve months, the rate shall be adjusted to exclude the amount per thm equal to the current Commodity "E" Factor which is reflected on the customer bill as the Gas Cost Adjustment. (C)

The Distribution Charge may be flexed in accordance with the Flexible Rate Provisions set forth in the Rules and Regulations of this Tariff. (C)

MINIMUM CHARGE

The minimum charge shall be the Customer Charge. (C)

STATE TAX ADJUSTMENT SURCHARGE

The charges described in this rate schedule are subject to a State Tax Adjustment Surcharge as set forth in this tariff.

RIDER PGC

The Pass-through Charge and the Gas Supply Charge include recovery of purchased gas costs pursuant to the Purchased Gas Cost Rider of this tariff. (C)

USP COSTS AND CUSTOMER CHOICE COSTS

Rider Universal Services Plan and Rider Customer Choice as specified within Rider USP and Rider Customer Choice in this tariff will be reflected in the Pass-through Charge on the customer bill. (C)

DISTRIBUTION SYSTEM IMPROVEMENT CHARGE

Rate RSS is subject to a Distribution System Improvement Charge as specified within Rider DSIC of this Tariff.

(C) Indicates Change

Issued: June 13, 2013

M. R. Kempic
President

Effective: July 1, 2013

Ex. A
Pg 1 of 2

RATE RSS – RESIDENTIAL SALES SERVICE (CONTINUED)

TERMS OF PAYMENT

Bills for sales service will be rendered monthly and are due and payable upon presentation. All bills shall be paid on or before the final date of payment shown on the bill, which date shall be not less than twenty (20) days after presentation (date of postmark).

Effective with bills due after May 1, 2001, if the customer fails to pay the full amount of any bill a delayed payment penalty charge of one and one-quarter percent (1 1/4%) per month will accrue on the customer's bill that is unpaid on the due date consistent with Paragraph 4.13.3.2.3 of the Columbia Rules Applicable to Distribution Service.

SPECIAL PROVISIONS

1. If service under this rate schedule is discontinued at the request of the Customer, the Company shall be under no obligation to reconnect service to the same Customer on the same premises until the Customer pays the monthly minimum charge for each month of the intervening period, but not to exceed twelve (12) months.

2. Where a customer has installed a gas light(s) in lighting devices approved by the Company, and the gas used by such light(s) is unmetered, the gas consumed by such light(s) shall be assumed to be two thousand (2,000) cubic feet per month when the Btu/hr input rating for such light(s) is 2,700 or less. For each additional 1,350 Btu/hr or fraction thereof, the assumed consumption shall be increased by one thousand (1,000) cubic feet per month. Such assumed consumption shall be billed under the rates contained herein, or if in combination with metered usage under this rate schedule, shall be added to the customer's metered usage and the total billed under the rates contained herein.

RULES AND REGULATIONS

The Rules and Regulations Governing the Distribution and Sale of Gas of this Tariff, which are not inconsistent with the provisions of this rate schedule, shall govern, where applicable, the supply of gas service under this rate schedule.

(C) Indicates Change

Issued: June 13, 2013

M. R. Kempic
President

Effective: July 1, 2013

Ex. A
Pg 2 of 2

Notice to Plead

To: Mike Kusturiss, Jr.:

You are hereby notified to file a written response to the above Preliminary Objections within ten (10) days from service hereof or a judgment may be entered against you. The response must be mailed to the Secretary of the Public Utility Commission:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

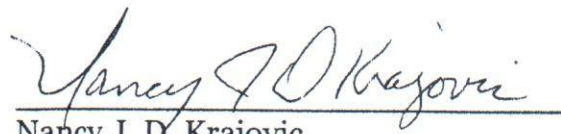
A copy of your response must also be mailed to:

Larry R. Crayne, PC
Attorney at Law
238 Johnston Road
Pittsburgh, PA 15241

VERIFICATION

I, Nancy J. D. Krajovic, hereby state that the facts set forth in the enclosed discovery responses are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 10-21-2013



Nancy J. D. Krajovic
Director, Rates & Regulatory Affairs
Columbia Gas of Pennsylvania, Inc.

Certificate of Service

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the participant, listed below, in accordance with the requirements of Sec. 1.54 (relating to service by a participant).

David Bayard Wolf, Esq.
12 North Jefferson Avenue
Canonsburg, PA 15317

Dated this 21st day of Oct, 2013


Larry R. Crayne
238 Johnston Road
Pittsburgh, PA 15241

Counsel for
Columbia Gas of Pennsylvania, Inc.