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October 29, 2013

J. DANIEL BROWN, CONTROLLER

ELISABETH H. WAGERS
DAVID B. WOLF

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

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SECRETARY'S BUREAU

Dear Ms. Chiavetta:

Please accept this as a written response to the New Matter and Preliminary Objections filed by Columbia Gas. A copy of this response is being mailed to opposing counsel.

Very truly yours,
KUSTURISS, WOLF & KUSTURISS

By 
David Bayard Wolf

DBW/bg
Enclosure
Cc: Larry R. Crayne, Esq., w/enc.

COMMONWEALTH OF PENNSYLVANIA

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

MIKE KUSTURISS, JR.,
Complainant,

Complaint Docket
No. C-2013-2385910

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Vs.

COLUMBIA GAS OF PENNSYLVANIA, INC.
Respondent.

REPLY TO NEW MATTER

AND NOW, comes the Complainant, Mike Kusturiss, Jr., and replies to the New Matter of Columbia Gas as follows:

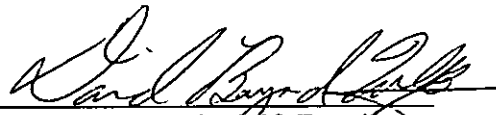
1. Admitted.
2. Denied. It is denied that Complainant is left with a choice of having to receive 100% of his natural gas requirements from Columbia Gas to the exclusion of the use of his own privately owned gas. It is respectfully averred that the relevant provision of the tariff only requires Complainant to purchase gas from Columbia Gas as opposed from purchasing it from someone else at the same time. The gas he is using is his own free gas. This does not threaten the monopoly of Columbia Gas. It is respectfully averred that the tariff language in question prohibits Complainant from purchasing gas from two different providers, one of which is Columbia Gas.
3. Denied. It is denied that Columbia Gas' refusal to provide back-up service does not require Complainant to give up the gas he receives from his well. On the contrary, Columbia Gas has informed Complainant that he must receive all of his natural gas from Columbia or from his well. To Complainant's knowledge, he may not receive back up gas service from any other provider apart from Columbia Gas.

4. Denied. It is denied that allowing Complainant to use his free gas constitutes an unreasonable preference or advantage to the Complainant. The only preference to the Complainant is his ability to use his own gas. Columbia Gas remains the sole and exclusive provider at cost of natural gas to the Complainant.
5. The allegations are misnumbered. Paragraph 5 does not exist.
6. The allegation that Complainant's dual feed system is dangerous or a safety hazard is denied. On the contrary, it is respectfully averred that the same is entirely safe and poses no threat to Columbia Gas at least to the knowledge of the Complainant.

WHEREFORE, Complainant requests this Honorable Commission to grant him the relief requested in his original Complaint.

KUSTURISS, WOLF & KUSTURISS

By


David Bayard Wolf, Esquire

COMMONWEALTH OF PENNSYLVANIA

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

MIKE KUSTURISS, JR.,
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WRITTEN RESPONSE TO PRELIMINARY OBJECTIONS

AND NOW, comes the Complainant, Mike Kusturiss, Jr., by his attorney, DAVID BAYARD WOLF, ESQUIRE, and files the following response to the Preliminary Objections as follows:

A. Legal Insufficiency of Pleading

1. Admitted.
2. The allegation contained in paragraph 2 is not an allegation of fact to which a response must be given.
3. It is denied that Complainant at his expense has any number of "other forms of backup" service to his privately owned gas well. On the contrary, Complainant is aware of none. To the extent the existing arrangement constitutes an expense to Columbia Gas, the same is denied. It is denied that Columbia Gas incurs any expense regarding the current arrangement. Rather, the only detriment to Columbia Gas is that the gas is purchased less frequently than Columbia Gas would like. The use by Complainant of his own gas does not constitute an expense of Columbia Gas.
4. The allegation contained in paragraph 4 as it relates to the written language of the gas tariff is neither admitted nor denied since the same being a writing speaks for itself.

The further averments in the nature of legal argument consist of quotations to Pennsylvania Commonwealth court cases. Again, these cases speak for themselves. *The allegation being an argument is neither admitted nor denied.*

5. The allegation contained in paragraph 5 again is a legal argument of the application of Pennsylvania Law to the Columbia Gas tariff rate RSS is neither admitted nor denied. To the extent a response is necessary, it is respectfully averred that Columbia Gas' interpretation of the language is incorrect. The requirement that Complainant received "100% of his natural gas service": from Columbia Gas maybe interpreted to mean that Complainant must purchase gas only from Columbia Gas rather than purchasing it from someone else at the same time. The gas the Complainant is receiving is his own gas. It is "free" gas. The language in question is obviously intended to create a monopoly for Columbia Gas as it relates to other gas providers, not as it relates to the use by Complainant of his own gas.
6. The allegation contained in paragraph 6 is not an averment of fact. It is an argument of Columbia Gas to which no responsive pleading is necessary. To the extent a response is necessary, the Complainant's "demand" is in response to a letter from Columbia Gas to him wherein Columbia Gas stated various positions as to why they were going to terminate service. Among them is the allegation that the gas service configuration on Complainant's property is "unsafe." That is nowhere mentioned in the Preliminary Objections or in the response of Columbia Gas. Again, the allegation of Columbia Gas is that they and only they can provide gas service to the Complainant's house. The only gas service provided at a cost to Complainant is the gas provided by Columbia Gas. There is no other gas provider. The sole purpose of

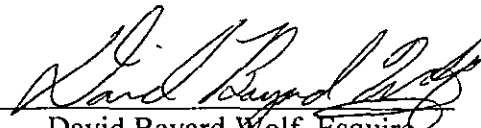
Columbia Gas' action in this regard as it relates to the Complainant is the desire for them to be the only person that can provide gas at a cost or for free to the Complainant. Clearly that was not the intention of the tariff language.

7. The paragraphs are misnumbered.
8. The allegation contained in paragraph 8 is not an averment of fact. It is an argument to which no responsive pleading is necessary. To the extent a response is necessary, it is respectfully averred that the bald assertion by Columbia Gas that any "dual feed situations" is per se a safety hazard which is subject to immediate termination pursuant to the Tariff Rule ignores the fact that this "dual feed situation" has been in existence for years and Columbia Gas has been aware of it and has taken no action whatsoever. Moreover, the fact that Columbia Gas deems it "a safety hazard" hardly makes it a "safety hazard."

WHEREFORE, Complainant prays this Honorable Court to overrule the Preliminary Objections in the nature of a demurrer to the Complaint.

KUSTURISS, WOLF & KUSTURISS

By


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