

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, :
Bureau of Investigation and Enforcement, :
Complainant :

v. :

Columbia Gas of Pennsylvania, Inc., :
Respondent :

Docket No. M-2014-2306076

PA PJC
SECRETARY'S BUREAU

2014 FEB -5 PM 2:45

RECEIVED

SETTLEMENT AGREEMENT

I. Introduction

1. Pursuant to 52 Pa. Code § 69.1201, the Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement ("I&E") and Columbia Gas of Pennsylvania, Inc. ("Columbia Gas" or "Company") hereby submit this Petition for Settlement ("Settlement Agreement") to resolve all issues related to the I&E informal investigation of consolidated matters as set forth herein. This Settlement Agreement includes operational modifications to the Company's field procedures that have been or will be implemented as part of this settlement. In addition, individual Statements in Support setting forth the views of I&E and of Columbia Gas accompany this Settlement Agreement.

2. The parties to this Settlement Agreement are I&E, by its prosecuting attorney, with a mailing address of P.O. Box 3265, Harrisburg, PA, 17105-3265, and

Columbia Gas, with offices located at 121 Champion Way, Suite 100, Canonsburg, PA 15317.

3. The Pennsylvania Public Utility Commission (“Commission”) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth pursuant to the Public Utility Code, 66 Pa.C.S.A. §§ 101, *et seq.*

4. Section 501(a) of the Public Utility Code, 66 Pa.C.S.A. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Public Utility Code.

5. The Commission has delegated its authority to initiate proceedings against public utilities that are prosecutory in nature to I&E and other bureaus with enforcement responsibility. *Delegation of Prosecutory Authority to Bureaus with Enforcement Responsibilities*, M-00940593 (Order entered September 2, 1994), as amended by Act 129 of 2008, 66 Pa.C.S.A. § 308.2(a)(11). This matter is brought under that delegated authority.

6. I&E is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa.C.S.A. § 308.2(a)(11).

7. Columbia Gas is a jurisdictional natural gas utility, with offices located at 121 Champion Way, Suite 100, Canonsburg, PA 15317.

8. Columbia Gas is a “public utility” as that term is defined at 66 Pa.C.S.A. §102,¹ as it is engaged in providing public utility service as a natural gas distribution company to the public for compensation.

9. Section 3301 of the Public Utility Code, 66 Pa.C.S.A. § 3301, authorizes the Commission to impose civil penalties on any public utility, or any other person or corporation subject to the Commission’s authority, for violation(s) of the Public Utility Code and/or Commission regulations. Section 3301 further allows for the imposition of a separate fine for each day’s continuance of such violation(s).

10. Pursuant to the Commission’s regulations at 52 Pa. Code § 59.33(b), the Commission’s Gas Safety Division, which is part of I&E, also has the authority to enforce the federal gas pipeline safety regulations, set forth in 49 U.S.C.A. §§ 60101, *et seq.*, and implemented in 49 CFR Parts 191-193 and 199, 49 CFR §§ 191-193, 199.

11. Columbia Gas, in providing gas distribution service for compensation, is subject to the power and authority of this Commission pursuant to Section 501(c) of the Public Utility Code, 66 Pa.C.S.A. § 501(c), which requires a public utility to comply with Commission orders.

12. Pursuant to the provisions of the applicable Commonwealth and federal statutes and regulations, the Commission has jurisdiction over the subject matter of this investigation and the alleged actions of Columbia Gas related thereto.

¹ At 66 Pa.C.S.A. § 102, “Public utility” is defined under that term at subsection (1)(i) as:

(1) Any person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(i) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity, or steam for the production of light, heat, or power to or for the public for compensation.

13. Pursuant to Sections 331(a) and 506 of the Public Utility Code, 66 Pa.C.S.A. §§ 331(a) and 506, and Section 3.113 of the Commission's Practice and Procedure ("Regulations"), 52 Pa. Code § 3.113, Commission staff has the authority to conduct informal investigations or informal proceedings in order to gather data and/or to substantiate allegations of potential violations of the Commission's regulations.

14. This matter concerns an informal investigation initiated by I&E's prosecutory staff at the request of the I&E Gas Safety Division ("GSD"). The GSD's initial investigation of the various consolidated matters described herein suggested that a further investigation be conducted to examine whether the actions of Columbia Gas or the third party contractor(s) of Columbia Gas violated state and/or federal gas safety regulations as well as the Company's own operating procedures.

15. As a result of negotiations between Columbia Gas and I&E (hereinafter referred to collectively as "Parties"), the Parties have agreed to resolve their differences as encouraged by the Commission's policy to promote settlements. (*See*, 52 Pa. Code § 5.231.) The duly authorized Parties executing this Settlement Agreement agree to the settlement terms set forth herein ("Settlement") and urge the Commission to approve the Settlement Agreement as submitted as being in the public interest.

II. Operating Valves P-2913 & P-2914

A. Background

16. On December 19, 2011, an excavator was installing a water line to a barn at 280 Old Hickory Ridge Road in Chartiers Township, Pennsylvania. At approximately 3:20 PM the excavator's trackhoe hit a Columbia Gas 2-inch plastic gas main operating at 40 psig.

17. Upon puncturing the gas main, the operator got off the trackhoe and the gas ignited. The trackhoe was destroyed by the ensuing fire.

18. Columbia Gas was notified at 3:25 PM of a problem in the 400 block of Old Hickory Ridge Road.

19. A Columbia Gas employee arrived on site at 3:49 PM and found the fire had engulfed the trackhoe.

20. The Columbia Gas employee observed that the fire was not affecting any other property or human life.

21. The gas measurement personnel were called to the scene by the Columbia Gas supervisor to start the pipeline shut down process.

22. To close the four valves that are inspected annually for the safe operation of the system at issue ("the emergency valves") would have impacted the service provided to 207 Columbia Gas customers.

23. Columbia Gas service personnel determined that the Company would close Valves P-2913 and P-2914 rather than the four designated emergency valves, thereby limiting to 28 the number of Columbia Gas customers out of service due to the closure.

24. According to available records, Valves P-2913 and P-2914 had not been inspected since 1993, when Columbia Gas took over the valve maintenance from Columbia Transmission.

25. Approximately 9,000 feet of pipe were shut down at 6:35 PM. With the source of gas to the fire eliminated, the fire extinguished itself.

B. Alleged Violations

26. Columbia Gas used valves for the safe operation of a distribution system that were “necessary” for the safe operation of the distribution system in that they enabled the Company to safely handle the natural gas emergency. The valves in question were not checked and serviced at intervals not exceeding 15 months, or at least once each calendar year.

If proven, this would be a violation of 49 CFR § 192.747(a). (2 counts)

III. Pipeline D-1810 (Overpressure)

A. Background

27. Pipeline D-1810 is a Columbia Gas steel transmission pipeline located in Allegheny County from Cecil Sturgeon Road to Bridgeville Regulator Station at Washington Pike.

28. Documentation reviewed during a May 2, 2011 integrity management inspection indicated that on December 10, 2003, Columbia Gas listed the operating pressure for Pipeline D-1810 at 506 psig.

29. The gas supply to Pipeline D-1810 is controlled by Columbia Transmission Pipeline 1570 with no pressure control devices.

30. Pipeline D-1810 has a listed maximum allowable operating pressure (“MAOP”) of 500 psig based on the highest operating pressure for the five-year period from July 1, 1965 to July 1, 1970.

31. The Company’s listed operating pressure for Pipeline D-1810 exceeded the MAOP for Pipeline D-1810 by 6 psig.

B. Alleged Violations

32. Columbia Gas operated Pipeline D-1810 at a pressure that exceeded the maximum allowable operating pressure.

If proven, this would be a violation of 49 CFR § 192.619(c). Notwithstanding the other requirements of this section, an operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the five years preceding July 1, 1970.

IV. Operating Pressure Violation in Somerset County (New Enterprise)

A. Background

33. On March 2, 2011, Columbia Gas discovered that the New Enterprise system in Somerset County, Pennsylvania (“New Enterprise system”) was operating at a pressure of 74 psig.

34. The New Enterprise system has a MAOP of 60 psig based on the pressure test of the pipeline after installation.

35. The Regulator Station 4189 that controls the gas pressure into the New Enterprise system using a monitor and control regulators was found to have a leaking bypass valve, allowing high pressure gas to bleed into the 60 psig system. There was no recording gauge at this station to monitor when the pressure increase occurred.

B. Alleged Violations

36. Columbia Gas operated the New Enterprise system at a pressure that exceeded the plastic pipe test pressure divided by a factor of 1.5.

If proven, this would be a violation of 49 CFR § 192.619(a)(2)(i).

37. Columbia Gas did not have pressure regulation devices that prevent accidental over pressuring due to a bypass valve leaking through at the regulator station that controlled the gas pressure into the New Enterprise system.

If proven, this would be a violation of 49 CFR § 192.195(b)(1) and (2).

38. Pressure relieving and limiting stations for pipelines that have a MAOP of 60 psig (like this one) must be set to operate at a maximum pressure of 66 psig.

If proven that the New Enterprise system was operating at a pressure of 74 psig, this would be a violation 49 CFR § 192.201(a)(2)(i).

V. Operating Pressure Violation in Washington County (Scenery Hill)

A. Background

39. On April 11 and 12, 2011, Columbia Gas discovered the Scenery Hill high pressure distribution system in Washington County, Pennsylvania (“Scenery Hill system”) was operating at pressures of 12 psig and 11 psig, respectively.

40. The documented MAOP for the Scenery Hill system based on the highest operating pressure for the five year period from July 1, 1965 to July 1, 1970 is 7 psig.

41. The cause of this overpressure was determined to be debris found in the control and monitor regulator, at Regulator Station 4062, causing the regulators to operate over the set points.

B. Alleged Violations

42. Columbia Gas did not have pressure regulation devices to prevent accidental over pressuring due to debris in the gas, which caused the regulator station that controlled the gas pressure into the Scenery Hill distribution system to malfunction and exceed the set points.

If proven, this would be a violation of 49 CFR § 192.195(b)(1) and (2).

43. Columbia Gas did not have pressure regulation devices, designed and installed at the regulator station to prevent a single occurrence such as debris in the gas from affecting the gas pressure into the Scenery Hill distribution system.

If proven, this would be a violation of 49 CFR § 192.199(g).

44. Pressure relieving and limiting stations for pipelines that have a MAOP of 7 psig must be set to operate at a maximum pressure of 10.5 psig.

If proven that the Scenery Hill system was operating at a pressure of 11 and 12 psig, this would be a violation 49 CFR § 192.201(a)(2).

VI. Overpressure of the Downstream Pipelines at the Carson Street Regulator Station 4135 in Connellsville.

A. Background

45. On July 21, 2012, Columbia Gas was notified of an odor of gas at the Carson Street Regulator Station 4135. The Company service personnel discovered gas blowing from the regulator at Station 4135 and turned the matter over to the Company's Gas Measurement and Regulation personnel.

46. The Columbia Gas Measurement and Regulation personnel discovered the downstream pressure of the regulator station reached 20 psig. The MAOP for the downstream pipeline system is 5 psig.

47. The Columbia Gas Measurement and Regulation personnel found that the bypass valve had leaked high pressure gas into the 5 psig system. I&E alleges that there was not adequate relief to prevent the system pressure from reaching 20 psig.

48. The Columbia Gas Measurement and Regulation personnel repaired the bypass valve and tested and checked the regulator equipment. I&E alleges that they reset the station pressure, and did not report the overpressure condition to anyone before leaving the site.

49. On July 23, 2012, the Columbia Gas Measurement and Regulation personnel that took the leak call advised the acting Operations Center Manager of the overpressure found and corrected two days earlier. The acting Operations Center Manager initiated an immediate leak survey of the affected downstream system, and began an investigation of the communications delay.

50. On July 23, 2012, a Class 1 leak was identified at 1415 Carson Street on the customer service line. For safety reasons, the service line was shut off immediately.

51. The two Columbia Gas Measurement and Regulation personnel involved in this occurrence had been employed in that capacity since January 2, 2011. Both employees had completed training regarding “NiSource Operator Qualification OQ-M-4 Inspect & Test Pressure Limit Stations, Relief Devices & Pressure Regulating Stations” on May 26, 2011. I&E alleges that neither Company employee met the definition of “Qualified” as set forth at 49 CFR § 192.803 in that neither recognized nor properly reacted to the overpressure of the downstream piping at the Carson Street Regulator 4135.

52. NiSource Distribution Operations Gas Standard number GS1150, “Response to Overpressure” states, at Section 2, paragraph 5, “If the distribution system pressure is found to exceed the normal system operating pressure parameters or exceeds the maximum allowable operating pressure, notify the dispatcher immediately.”

53. I&E alleges that the Columbia Gas personnel did not immediately report this overpressure to the dispatcher, but rather reported the condition on July 23, 2012 and that this

delayed the Company's required response to leak survey the pipelines that were over pressured.

54. I&E alleges that the Columbia Gas personnel responding to this overpressure held their positions since January 2, 2011, and both completed the NiSource Operator Qualification Inspect & Test Pressure Limit Stations, Relief Devices & Pressure Regulating Stations, OQ TASK CDOQM4 on May 26, 2011 by OQ Test Passed- Written Exam, but there were no records maintained by the Company to indicate that the employees in question answered the abnormal operating condition questions correctly.

55. I&E alleges that Columbia Gas neither retains individual test results for each person, nor measures retention rates upon providing the correct answers to missed questions.

B. Alleged Violations

56. Columbia Gas had a regulator station design that allowed a bypass valve leak to create an overpressure condition in the downstream system; this occurred on July 21, 2012, to 1,400 feet of main and 14 services; the MAOP of the main and service pipelines is 5 psig; and on this particular date, the pressure was found to be 20 psig as a result of a bypass valve that leaked high pressure gas into the downstream system.

If proven, this would be a violation of 49 CFR § 192.195(b)(2).

57. The Columbia Gas personnel who discovered the overpressure at the Carson Street regulator station did not follow the NiSource Distribution Operations Gas Standard number GS1150 Response to Overpressure, which delayed the Company's required response to leak survey the pipelines that were over pressured.

If proven, this would be a violation of 49 CFR § 192.13(c).

58. Columbia Gas failed to ensure through evaluation that individuals performing covered tasks were qualified.

If proven, this would be a violation of 49 CFR § 192.805(b).

VII. Excavation Damage of Pipeline D-1810 in Collier Township

A. Background

59. On July 21, 2012, at 1:13 PM Columbia Gas was notified by Allegheny County 911 of excavation damage at 1273 Washington Pike in Collier Township, Pennsylvania.

60. The damage was caused by a third party while installing guard rail posts in the area behind the curb. Pipeline D-1810 operates at 170 psig in the area of the damaged pipe.

61. This section of Washington Pike was closed while repairs to the pipeline were undertaken.

62. I&E alleges that the Columbia Gas personnel who arrived on the scene were unable to immediately shut down the damaged section of Pipeline D-1810 because the valve that controls the flow of gas to the pipeline would not turn. The pipeline was shut down using a stopple fitting at 7:00 PM. The repairs to the pipeline were completed and the road was re-opened at 2:00 AM on July 22, 2012.

63. Columbia Gas had received seven PA One Call notices from the third-party guard rail installer from April 12, 2012 to July 11, 2012. Columbia Gas responded to six of the notices that the facilities were marked.

64. The Columbia Gas locating personnel had located Pipeline D-1810 at both ends of the notices and found the pipe in the street. I&E alleges that they knew this third-party contractor was installing guard rail posts in the area behind the curb but did not locate Pipeline D-1810 near the excavation site.

65. There were three different Columbia Gas locate personnel that evaluated the six PA One Call notices from April 12, 2012 to July 11, 2012. I&E alleges that none of the locate personnel located Pipeline D-1810 between the intersections to determine if the buried pipeline would be in the area of excavation. I&E alleges that before leaving the site, none of the Columbia Gas personnel reviewed the locate request or verified that the markings were adequate and matched the records.

66. I&E alleges that this error allowed Pipeline D-1810 to be damaged.

67. All three Columbia Gas locate personnel received NiSource Operator Qualification OQ-M2 for Locate and Mark Underground Facilities. The Company personnel all successfully passed a written test and were evaluated by OJT or task simulation. I&E alleges that none of the Columbia Gas personnel met the definition of "Qualified" as set forth at 49 CFR § 192.803 in that none recognized or reacted to the abnormal operating condition of no marks for Pipeline D-1810 through the entire locate request.

68. The Company's own "NiSource Distribution Operations Gas Standard number GS1100.010(PA), Locating Facilities," Section 2.3.4 titled "Marking" states, "[M]ark all facilities and paint valve box covers within the scope of the locate request. Extend marks at least 25 feet beyond established work zone (50 feet preferred)." Section 2.3.5 titled "Prior to Leaving the Site" states, "[B]efore leaving the site, be sure to review the locate request and verify that any markings are adequate and match the records."

69. The Company's three employees that provided locates for Pipeline D-1810 along Washington Pike (SR 50) between Winstein Street and Steen Road in Collier Township had varying experience levels, and all completed NiSource Operator Qualification Locate and Mark Underground Facilities OQ TASK CDOQM2 at different times.

70. I&E alleges that there were no records maintained by the Company to indicate that the employees in question answered the abnormal operating condition questions correctly. Columbia Gas neither retains individual test results for each person, nor measures retention rates upon providing the correct answers to missed questions.

71. I&E alleges that no marks are an abnormal operating condition for this task and that had any one of the Company locate personnel recognized that there were no marks within the scope of the locate request they could have prevented the resulting damage.

B. Alleged Violations

72. Columbia Gas personnel failed to provide for temporary marking of buried Pipeline D-1810 along Washington Pike (SR 50) between Winstein Street and Steen Road in Collier Township in the area of the excavation activity.

If proven, this would be a violation of 49 CFR § 192.614(c)(5).

73. Columbia Gas personnel responding to the pipeline locates failed to mark Pipeline D-1810 within the scope of the locate request.

If proven, this would be a violation of 49 CFR § 192.805.

74. Columbia Gas failed to ensure through evaluation that individuals performing covered tasks were qualified.

If proven, this would be a violation of 49 CFR § 192.805(b).

VIII. Overpressure of the Downstream Pipelines at Regulator Station 4853 near West Newton.

A. Background

75. On June 24, 2013, Columbia Gas Company Chart for Regulator Station 4853 indicated a spike in pressure from 49 psig at approximately 11:00AM to 85 psig at approximately 12:00. The pressure began to drop over the next few days until it reached the MAOP of the system at 60 psig at 3:00AM on June 29, 2013. This station is near the town of West Newton.

76. Columbia Gas personnel did not discover the over pressure of 15 psig until the chart was removed on July 15, 2013.

77. When this over pressure was discovered an investigation into the cause of this issue began.

78. This investigation revealed that Columbia Gas Transmission personnel turned a gas well owned by Viking Energy into Columbia Gas Company's system without monitoring the pressure to determine if the MAOP would be exceeded.

79. Columbia Gas Transmission personnel contacted the Columbia Gas supervisor in Charleroi and told him they were putting this well on line. The Columbia Gas supervisor did not notify any one of the Columbia Gas Transmission intentions.

B. Alleged Violations

80. According to the chart, the 60 psig MAOP was exceeded for 4 days and 15 hours.

If proven, this would be a violation of 192.13(c), 192.195, 192.605(b)(5) and 192.619(a).

IX. Overpressure of the Downstream Pipelines at Regulator Station 4092 in Dunbar Township.

A. Background

81. On June 25, 2013, Columbia Gas Measurement & Regulation Technicians arrived at Regulator Station 4092 in Dunbar Township to inspect the station.

82. When the gauge was installed on the downstream side of the regulator station it registered 12 psig. The MAOP is 4 psig for this system.

83. The regulator station cuts the high pressure gas to 4 psig into the system that services the customers. The pressure was lowered and the regulators were tested and found to be operating properly. The bypass valve was greased and operated.

84. The station was put back in service operating at 3.9 psig. An ERX was installed to monitor the pressure. The pipe was scheduled for replacement so the regulator station could be removed.

B. Alleged Violations

85. The 4 psig MAOP was exceeded for an undetermined amount of time.

If proven, this would be a violation 192.195(b)(2) and 192.619(a).

X. Overpressure of the Downstream Pipelines at Penn State Grad Lab Building Regulator at University Park

A. Background

86. On July 11, 2013, Columbia Gas performed a routine inspection on the regulators to Penn State University's Grad Lab Building located at University Park, PA. The system pressure upstream of the regulators feed the Grad Lab building was 31 psig.

87. The technician found the downstream pressure to be 26.5 psig. When functioning properly, the correct outlet pressure would be 5 psig. Despite having monitor overpressure protection, the MAOP was exceeded by 21.5 psig.

88. The regulator and monitor overpressure protection were inspected and found to be functioning properly.

89. Columbia determined the source of the failure to be a leaking bypass valve which allowed gas to bypass the regulators and build up pressure downstream of the regulator and the overpressure protection.

B. Alleged Violations

90. The 5 psig MAOP was exceeded by 21.5 psig.

If proven, this overpressure would be a violation of 192.13(c) and 192.619(a).

91. All of the above, as set forth in Paragraphs 16 through 90, resulted in an increased danger to the public in violation of 66 Pa.C.S.A. § 1501. The Parties note, however, that no loss of life or personal injury occurred in connection with any of the matters set forth in Paragraphs 16 through 90, above.

92. Throughout the entire I&E investigation and settlement discussions, I&E and Columbia Gas have remained active in informal discovery and have continued to work cooperatively toward a desired goal of resolving this matter without the need for litigation, which effort ultimately culminated in this Settlement Agreement.

XI. Terms of Settlement

93. Columbia Gas and I&E desire to: (i) resolve I&E's informal investigation at Docket No. M-2013-2306076 and (ii) settle this matter completely without further litigation.

94. Although Columbia Gas may dispute or disagree with some or all of the alleged violations, the Company fully acknowledges the seriousness of the allegations. Columbia Gas also recognizes the need to prevent such alleged violations and the numerous benefits of amicably resolving the investigation and thereby avoiding the filing of a formal complaint.

95. Columbia Gas and I&E, intending to be legally bound and for consideration given, desire to resolve the above-captioned matter and agree to the following terms solely for the purposes of this Settlement Agreement:

a. Pursuant to 66 Pa.C.S.A. § 3301(c),² Columbia Gas will pay a civil penalty of one hundred ten thousand (\$110,000) dollars. Said payment shall be made by certified check payable to “Commonwealth of Pennsylvania” and forwarded to the Commission through the prosecuting attorney within thirty (30) days of the date of the Order approving this Settlement.

b. Columbia Gas has taken corrective action and implemented revisions to its operating procedures which will act as safeguards against similar incidents occurring in the future. The pertinent actions taken by Columbia Gas are briefly described as follows:

Columbia Gas will take the following corrective action:

- i. Columbia Gas shall provide a district regulator station at the connection of D-1810 in Allegheny County to Columbia Transmission 1570 pipeline to prevent operating D-1810 at a pressure higher than the maximum allowable operating pressure;
- ii. Columbia Gas shall provide a list of all single feed district regulator stations for Columbia Gas that do not have a recording gauge at this time;
- iii. Columbia Gas shall install recording gauges at all identified stations at a rate of 80 (eighty) units per year, beginning July 1, 2013, until all the stations identified above have had gauges installed. Further, Columbia Gas shall, at 6 month intervals, conduct twice annual meetings with the Gas Safety Division to review the status of the installation program and the remaining installation priorities;

² The first four incidents included in this consolidated settlement fall under the pre-Act 11 penalties outlined in 66 Pa.C.S.A. § 3301 with a maximum civil penalty of \$10,000 per violation and \$200,000 for any related series of violations. The remaining five matters fall under the current language of Section 3301 since they occurred subsequent to the effective date of Act 11. For these five matters, the maximum civil penalty is \$200,000 per violation and \$2,000,000 for any related series of violations.

- iv. Columbia Gas shall provide a list of all single feed district regulator stations for Columbia Gas that do not have a relief valve on the outlet side with no flow conditions for any 24 hour period;
- v. Columbia Gas shall provide a list of all district regulator stations for Columbia that are supplied from production gas either whole or in part;
- vi. Columbia Gas shall provide and implement a design for the identified regulator stations to prevent accidental over pressure at the rate of 80 (eighty) units per year, beginning July 1, 2013, until all the stations identified above have had additional over-pressure installed. Further, Columbia Gas shall begin this program by addressing the single feed, low pressure systems that do not currently have additional over-pressure protection. Further, Columbia Gas shall, at 6 month intervals, conduct twice annual meetings with the Gas Safety Division to review the status of the installation program and the remaining installation priorities;
- vii. Columbia Gas shall provide a process for evaluating operating personnel for determining abnormal operating conditions and provide a record for this process;
- viii. Columbia Gas shall adopt as its baseline OQ Training and Testing methodology the "Virginia Enhanced OQ Training and Testing Protocol" as the covered tasks in that protocol become available to the industry, with the exception that Columbia Gas shall not be required to include construction covered tasks in its baseline OQ Training and Testing methodology. In consultation with the Gas Safety Division, Columbia Gas may amend its baseline OQ Training and Testing methodology to address issues that are unique to Pennsylvania and/or Columbia Gas. Using this new process Columbia will qualify it's new employees and new contractor employees to this new standard as they are hired, and current employees and contract employees as their existing qualifications expire; and
- ix. Columbia Gas shall perform annual inspections of any distribution system valve used to close the system in a natural

gas emergency that was not designated a necessary or emergency valve at the time of the emergency (and therefore was not a valve that was inspected annually.) After six (6) annual inspections, if the valve has not again been used in an emergency, the annual inspections may cease. If during that six year period the valve has been used again to close the system in an emergency, Columbia Gas will reclassify that valve as an emergency valve and conduct an inspection once every calendar year, not to exceed fifteen (15) months.

96. In addition to the civil penalty and operational modifications set forth above, Columbia Gas agrees to resolve a master meter issue, referred to herein as the "Delong Farm Tap," as follows:

- a. The Delong Farm Tap is a "master meter system" located at Fullerton Road in Bradford, Pennsylvania that is owned and operated by Ms. Casey Delong and served by Columbia Gas. The system is "farm tap"-type arrangement whereby the landowner is served by a private gas line connected directly to distribution facilities, and the private gas line from its connection to the distribution facilities to the premise(s) belongs to the landowner.
- b. There are currently a total of eight (8) consumers connected to and taking gas from the Delong Farm Tap. Columbia Gas facilities serving the Delong line consist of a tap off of an interstate pipeline owned and operated by Columbia Gas Transmission, LLC and a meter that measures consumption on the customer-owned system. Neither Columbia Gas nor any related company owns any facilities downstream of Columbia's meter. There are privately-owned meters at each of the eight premises served by the Delong line. Ms. Delong is billed by Columbia Gas for the usage on the Delong line as measured at Columbia's meter and then, presumably, Ms. Delong is responsible for collecting payment from each of the premises on the system based on the usage measured on the private meters at each premise. As consumers on the Delong line continued to utilize the gas but failed to contribute to the payment for the gas, Ms. Delong sought the assistance of the Commission's Gas Safety Division (GSD).
- c. I&E and Columbia Gas have held numerous meetings and discussions in an effort to resolve Ms. Delong's concerns. I&E's GSD expressed a desire to have Columbia Gas take over the Delong line

whereby Ms. Delong and each of the other customers on the line would be served and individually billed by Columbia Gas. Columbia Gas advised that it would need to install new facilities in order to provide such service. Given the estimated cost to install such facilities, it was deemed impractical to assume that these eight customers would be willing to pay the difference between the maximum allowable investment to serve them and the capital expenditure necessary for such installation.

d. As a means of resolving GSD's concerns regarding the Delong line, the Parties herein have agreed to a lesser monetary civil penalty than originally sought by I&E regarding the alleged overpressure violations in exchange for the installation by Columbia Gas of facilities that would replace the Delong Farm Tap facilities and would serve and bill the consumers currently connected to the Delong line who so desired to continue to be served by Columbia Gas. Columbia Gas expects to make an investment in new facilities of approximately \$200,000 to replace the Delong Farm Tap. Columbia Gas will not be precluded from recovering its reasonable costs related to this facilities investment, to a maximum recovery of \$200,000.

97. In consideration of the Company's payment of a civil penalty and other, non-monetary relief, as specified herein, I&E agrees to forgo the institution of any formal complaint that relates to the matters described herein and the related conduct of the Company, its employees, and its contractors employees, as described in the Settlement Agreement. Nothing contained in this Settlement Agreement shall adversely affect the Commission's authority to receive and resolve any informal or formal complaints filed by any affected party with respect to the alleged events, except that no further sanctions may be imposed by the Commission for any actions identified herein.

XII. Conclusion

98. With the Commission's approval that the terms and conditions in this Settlement Agreement are in the public interest and cannot be used against Columbia Gas

in any future proceeding relating to this matter, Columbia Gas agrees, among other terms set forth above, to pay a civil penalty of one hundred ten thousand dollars (\$110,000) within thirty (30) days of the date of the Order approving this Settlement in order to resolve through this Settlement Agreement the allegations raised by the I&E investigation. Moreover, Columbia Gas agrees not to seek recovery of any portion of *this payment or contribution in a future ratemaking proceeding or any other proceeding* or manner whatsoever and shall not include any portion of this civil penalty in any future rate proceeding, nor shall it be tax deductible under Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). However, nothing in this Paragraph shall be deemed to preclude Columbia Gas from seeking to recover the costs associated with implementing the measures described in Paragraphs 95 and 96 of the this Settlement Agreement.

99. This Settlement Agreement is a full and final resolution of the Commission investigation, related in any way to the alleged actions of Columbia Gas as described in this Settlement Agreement, up to and including the date this Settlement Agreement is signed by the Parties.

100. Columbia Gas and I&E have agreed to this amicable settlement in the interest of avoiding formal litigation and moving forward in the conduct of business in Pennsylvania. I&E agrees not to institute any formal complaint relating to the alleged actions of Columbia Gas that are the subject of this Settlement.

101. Columbia Gas and I&E have entered into and seek the Commission's approval of the Settlement Agreement pursuant to 52 Pa. Code § 3.113. This Settlement Agreement is a compromise and subject to all applicable administrative and common law treatments of settlements, settlement offers, and/or negotiations. This Settlement Agreement is, therefore, a compromise and is conditioned upon the Commission's approval of any of the terms and conditions contained herein without modification or amendment.

102. If the Commission does not approve this Settlement Agreement by tentative or final order, or any of the terms or conditions set forth herein, without modification, addition or deletion, then either Party may elect to withdraw from this Settlement Agreement by filing a response to the tentative or final order within twenty (20) days of the date the tentative or final order is entered. None of the provisions of this Settlement Agreement shall be considered binding upon the Parties if such a response is filed.

103. This document represents the Settlement Agreement in its entirety. No changes to obligations set forth herein may be made unless they are in writing and are expressly accepted by the parties involved. This Settlement Agreement shall be construed and interpreted under Pennsylvania law.

104. None of the provisions of the Settlement Agreement or statements herein shall be considered an admission of any fact or culpability. I&E acknowledges that this Settlement Agreement is entered into with the express purpose of settling the asserted claims regarding the specific alleged violations of the Public Utility Code, Pennsylvania Code, and the regulations promulgated thereunder without admission against, or


prejudice to, any position which any Party may adopt during any subsequent proceeding of whatever nature.

105. This Settlement Agreement resolves with prejudice all issues related to the informal investigation. This Settlement Agreement is made without admission against, or prejudice to, any factual or legal positions which any of the Joint Petitioners may assert in subsequent litigation of this proceeding before the Commission in the event that the Commission does not issue a final, non-appealable Order approving this Settlement Agreement without modification. This Settlement Agreement is determinative and conclusive of all the issues addressed herein and constitutes a final settlement of the matters thereof as among the parties to the Settlement Agreement and the Commission. Provided, however, that this Settlement Agreement makes no findings of fact or conclusions of law, and therefore, it is the intent of the Parties that this document and the related Statements in Support not be admitted as evidence in any potential civil proceeding involving this matter. It is further understood that by entering into this Settlement Agreement and agreeing to pay a civil penalty, Columbia Gas has made no admission of fact or law and disputes all issues of fact and law for all purposes in all proceedings, including but not limited to any civil proceedings, that may arise as a result of the circumstances described in this Settlement Agreement.


WHEREFORE, Columbia Gas of Pennsylvania, Inc. and the Commission's Bureau of Investigation and Enforcement respectfully request that the Commission adopt an order approving the terms and conditions of this Settlement Agreement as being in the public interest.

Respectfully submitted,

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement

By: 
Michael L. Swindler
Prosecutor
PA PUC
P.O. Box 3265
Harrisburg, PA 17105
717.783.6369
mwindler@pa.gov

Columbia Gas of Pennsylvania, Inc.

By: 
Theodore J. Gallagher, Esquire
Senior Counsel
NiSource Corporate Services Co.
121 Champion Way, Suite 100
Canonsburg, PA 15317
724.416.6355
tjgallagher@nisource.com

Date: 24 JAN 14

Date: 01/17/14

RECEIVED
2014 FEB -6 PM 2:45
PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement,
Complainant

v.

Columbia Gas of Pennsylvania, Inc.,
Respondent

Docket No. M-2014-23060-76

PA PUC
SECRETARY'S BUREAU

2014 FEB -6 PM 2:45

RECEIVED

COLUMBIA GAS OF PENNSYLVANIA, INC.'s
STATEMENT IN SUPPORT OF SETTLEMENT AGREEMENT

Columbia Gas of Pennsylvania, Inc. ("Columbia Gas" or "the Company"), by and through its counsel, hereby respectfully submits its Statement in Support of the Settlement Agreement ("Settlement Agreement") submitted in the captioned proceeding. The terms and conditions of the Settlement Agreement are in the public interest and represent a fair, just, reasonable, and equitable resolution of the matters described therein. Approval of the Settlement Agreement is consistent with the Commission's *Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*, 52 Pa. Code § 69.1201.

Columbia Gas and the Commission's Bureau of Investigation and Enforcement ("I&E") engaged in extensive exchange of information and negotiation and, as a result, I&E and the Company have agreed upon the terms embodied in the Settlement Agreement. Columbia Gas submits that the Settlement Agreement is in the public interest, as supported by the following factors:

I. BACKGROUND

1. As the Settlement Agreement indicates, this matter resolves an informal investigation initiated by I&E's prosecutory staff at the request of the I&E Gas Safety Division, which focused on whether Columbia Gas or the third party contractor(s) of Columbia Gas violated state and/or federal gas safety regulations as well as the Company's own operating procedures. This matter also resolves the Gas Safety Division's concerns about the "Delong Farm Tap," which is a customer-owned master meter system located in Bradford, Pennsylvania, as described in Paragraph 96 of the Settlement Agreement.

2. I&E and other bureaus with enforcement authority are the entities established by statute to initiate proceedings against public utilities that are prosecutory in nature. (*Delegation of Prosecutory Authority to Bureaus with Enforcement Responsibilities*, M-00940593, Order entered September 2, 1994), as amended by Act 129 of 2008, 66 Pa.C.S.A § 308.2(a)(11). I&E brought this matter under that delegated authority.

3. Columbia Gas has its principal place of business located in Canonsburg, Pennsylvania and at all times relevant to this proceeding was a public utility, as defined by 66 Pa. C.S. Section 102, engaged in providing natural gas service to the public for compensation.

II. PARTIES' POSITIONS

4. The averments of I&E contained in the Settlement Agreement were formulated without the benefit of a hearing and certain averments are or may be disputed by Columbia Gas.

5. The Parties' agreement to settle the matters described in I&E's averments was made without any admission or prejudice to any position that they might adopt during any necessary subsequent litigation in the event that this settlement is rejected by the Commission or otherwise properly withdrawn by any of the parties.

III. SETTLEMENT AGREEMENT

6. The parties to the Settlement Agreement have engaged in extensive and detailed discussions with respect to the allegations and defenses relating to each of the matters described in Paragraphs 16 through 92, and in Paragraph 96 of the Settlement Agreement. The purpose of this Settlement Agreement is to resolve these matters without litigation in a manner that minimizes concerns regarding future similar events.

7. Columbia Gas has been cooperative and pro-active in addressing the concerns identified in Paragraphs 16 through 92, and in Paragraph 96 of the Settlement Agreement.

8. Based upon the foregoing, the parties have agreed to the entry of an Order directing as follows:

- a. Pursuant to 66 Pa.C.S.A. § 3301(c), Columbia Gas will pay a civil penalty of one hundred ten thousand (\$110,000) dollars. Said payment shall be made by certified check payable to "Commonwealth of Pennsylvania" and forwarded to the Commission through the prosecuting attorney within thirty (30) days of the date of the Order approving this Settlement.
- b. Columbia Gas has taken corrective action and implemented revisions to its operating procedures which will act as safeguards against similar incidents occurring in the future. The pertinent actions taken by Columbia Gas are briefly described as follows:

Columbia Gas will take the following corrective action:

- i. Columbia Gas shall provide a district regulator station at the connection of D-1810 in Allegheny County to Columbia Transmission 1570 pipeline to prevent operating D-1810 at a pressure higher than the maximum allowable operating pressure;
- ii. Columbia Gas shall provide a list of all single feed district regulator stations for Columbia Gas that do not have a recording gauge at this time;
- iii. Columbia Gas shall install recording gauges at all identified stations at a rate of 80 (eighty) units per year, beginning July 1, 2013, until all the stations identified above have had gauges installed. Further, Columbia Gas shall, at 6 month

intervals, conduct twice annual meetings with the Gas Safety Division to review the status of the installation program and the remaining installation priorities;

- iv. Columbia Gas shall provide a list of all single feed district regulator stations for Columbia Gas that do not have a relief valve on the outlet side with no flow conditions for any 24 hour period;
- v. Columbia Gas shall provide a list of all district regulator stations for Columbia that are supplied from production gas either whole or in part;
- vi. Columbia Gas shall provide and implement a design for the identified regulator stations to prevent accidental over pressure at the rate of 80 (eighty) units per year, beginning July 1, 2013, until all the stations identified above have had additional over-pressure installed. Further, Columbia Gas shall begin this program by addressing the single feed, low pressure systems that do not currently have additional over-pressure protection. Further, Columbia Gas shall, at 6 month intervals, conduct twice annual meetings with the Gas Safety Division to review the status of the installation program and the remaining installation priorities;
- vii. Columbia Gas shall provide a process for evaluating operating personnel for determining abnormal operating conditions and provide a record for this process;
- viii. Columbia Gas shall adopt as its baseline OQ Training and Testing methodology the "Virginia Enhanced OQ Training and Testing Protocol" as the covered tasks in that protocol become available to the industry, with the exception that Columbia Gas shall not be required to include construction covered tasks in its baseline OQ Training and Testing methodology. In consultation with the Gas Safety Division, Columbia Gas may amend its baseline OQ Training and Testing methodology to address issues that are unique to Pennsylvania and/or Columbia Gas. Using this new process Columbia will qualify its new employees and new contractor employees to this new standard as they are hired, and current employees and contract employees as their existing qualifications expire;
- ix. Columbia Gas shall perform annual inspections of any distribution system valve used to close the system in a natural gas emergency that was not designated a necessary or emergency valve at the time of the emergency (and therefore was not a valve that was inspected annually.) After six (6) annual inspections, if the valve has not again been used in an emergency, the annual inspections

may cease. If during that six year period the valve has been used again to close the system in an emergency, Columbia Gas will reclassify that valve as an emergency valve and conduct an inspection once every calendar year, not to exceed fifteen (15) months.

In addition to the civil penalty and operational modifications set forth above, Columbia Gas shall resolve the Delong Farm Tap master meter issue as follows:

Columbia Gas shall install facilities that will replace the Delong Farm Tap facilities and will serve and bill the consumers currently connected to the Delong line who so desire to continue to be served by Columbia Gas.

9. In consideration of the Columbia Gas' payment of a civil penalty in the amount of \$110,000, as described herein, and implementation and completion of the measures described above in Paragraph 8 of this Statement in Support, I&E has expressly agreed to forbear the institution of any formal complaint or other informal investigation that relates to the Columbia Gas' conduct as alleged in Paragraphs 16 through 93 of the Settlement Agreement, and regarding the Delong Farm Tap, as described in Paragraph 96 of the Settlement Agreement.

10. Nothing in the Settlement Agreement shall affect the Commission's authority to receive and resolve any informal or formal complaints filed by any affected party with respect to the alleged events covered by the Settlement Agreement, except that no further enforcement action, including but not limited to civil penalties, shall be imposed by the Commission on Columbia Gas for any actions that are within the scope of the Settlement Agreement.

11. Columbia Gas submits that the Settlement Agreement is in the public interest, and therefore requests that the Commission approve this Settlement agreement as in the public interest. The Settlement Agreement is expressly conditioned upon the Commission's approval under applicable public interest standards without modification, addition, or deletion of any term or condition herein. If the Commission fails to approve the Settlement Agreement by tentative or

final order, or any of the terms or conditions set forth herein, without modification, addition or deletion, then either Party may elect to withdraw from the Settlement Agreement by filing a response to the tentative or final order within twenty (20) days of the date that the tentative or final order is entered. None of the provisions of the Settlement Agreement shall be considered binding upon the Parties if such a response is filed.

12. Nothing contained in the Settlement Agreement may be used or construed by any person as an admission of any fact by Columbia Gas. The Settlement Agreement is proposed by the Parties without any admission against, or prejudice to, any position which any Party may adopt during any subsequent administrative or court proceeding of whatever nature.

IV. COMPLIANCE WITH THE COMMISSION'S POLICY STATEMENT ON LITIGATED AND SETTLED PROCEEDINGS INVOLVING VIOLATION OF THE PUBLIC UTILITY CODE AND COMMISSION REGULATIONS

13. Columbia asserts that approval of the Settlement Agreement is consistent with the Commission's *Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*, 52 Pa. Code § 69.1201 ("Policy Statement").

14. Under this Policy Statement, the Commission will consider specific factors when evaluating settlements of alleged violations of the Public Utility Code and Commission's Regulations. These factors are: (1) Whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation; (2) Whether the resulting consequences of the conduct at issue were of a serious nature, such as personal injury or property damage; (3) Whether the conduct at issue was deemed intentional or negligent (may only be considered when evaluating litigated cases); (4) Whether the regulated entity made efforts to modify internal policies and procedures to address the conduct at issue and prevent similar conduct in the future; (5) The

number of customers affected and the duration of the violation; (6) The compliance history of the regulated entity that committed the violation; (7) Whether the regulated entity cooperated with the Commission's investigation; (8) The amount of the civil penalty or fine necessary to deter future violations; (9) Past Commission decisions in similar situations; and (10) Other relevant factors. 52 Pa. Code § 69.1201(c).

15. When applied to settled cases, the Commission will not apply the standards as strictly as it will in litigated cases. 52 Pa. Code § 69.1201(b).

16. With regard to the first standard and starting point in the Policy Statement, whether the conduct at issue was of a serious nature, such as willful fraud or misrepresentation, there is no suggestion in the descriptions of alleged violations in the Settlement Agreement that Columbia Gas engaged in willful fraud or misrepresentation. Rather, the alleged conduct was in the nature of technical errors, which the Policy Statement characterizes as "less egregious." Thus, while issues of line pressurization and gas valve operations are, by nature, serious matters, Columbia Gas submits that its conduct at issue was not of a serious nature under the Policy Statement, since it did not involve willful fraud or misrepresentation.

17. With regard to the second standard set out in the Policy Statement, whether the resulting consequences attributable to the conduct at issue were of a serious nature, Columbia submits that its conduct, as described in the Settlement Agreement, did not result in serious consequences. While the incident described in Paragraphs 16 through 26 of the Settlement Agreement involved a trackhoe that was destroyed by fire, it is important to note that Columbia's conduct at issue in those paragraphs did not cause that fire. Rather the fire was caused the trackhoe operator hitting a Columbia Gas 2-inch main. Columbia's conduct at issue in those paragraphs had to do with the Company's operation of valves in response to the situation caused by the trackhoe operator.

18. Since this is a settled matter, the third standard set out in the Policy Statement, whether the alleged conduct at issue was intentional or negligent, is not at issue.

19. Under the fourth standard in the Policy Statement, the Commission will consider modifications that may include activities such as training and improving company techniques and supervision, as well as the time it took to correct the conduct, and the involvement of top-level management in correcting the conduct. All of these considerations weigh in favor of Columbia Gas in this matter. The Settlement Agreement calls for changes to Columbia Gas training protocols, physical modifications to its distribution system, as well as modifications to its record-keeping protocols, as described in Paragraph 95 of the Settlement Agreement. With respect to the timing it has taken to make corrections, it should be noted that Columbia commenced physical modifications on July 1, 2013, and has agreed to review the status of those measures with the Gas Safety Division at six month intervals. It is also noteworthy that the measures that Columbia Gas has agreed to undertake are the result of direct negotiations between the Gas Safety Division and the Company's Vice President of Safety Compliance.

20. Skipping from the fourth to the seventh standard in the Policy Statement, Columbia cooperated fully with I&E in its investigation. There are no facts alleged that would tend to establish bad faith on the part of Columbia Gas, active concealment of violations, or attempts to interfere with the Commission's investigation.

21. Regarding the eighth standard in the Policy Statement, Columbia Gas submits that the civil penalty of \$110,000 will adequately serve to deter future violations. As noted in the Settlement Agreement, the Parties agreed to a lower civil penalty than originally sought by I&E regarding the violations alleged in the Settlement Agreement in exchange for the installation by Columbia Gas of facilities that would replace the *Delong Farm Tap* facilities from which Columbia Gas would serve and bill the consumers currently connected to the Delong line who so

desire to continue to be served by the Company. Even with the reduced penalty, the assessment of a \$110,000 civil fine will be more than double the highest civil penalty that the Commission has assessed against Columbia Gas to date.

22. Regarding the tenth standard in the Policy Statement, Columbia Gas submits that its agreement to install facilities that would replace the Delong Farm Tap facilities and from which the Company would serve and bill the consumers currently connected to the Delong line who wish to continue to be served by Columbia Gas is a consideration that weighs in favor of the Commission's approval of the Settlement Agreement. While the Gas Safety Division had expressed its desire that Columbia Gas take over the Delong line, as a prudent operator, Columbia Gas was not willing to purchase the Delong facilities in their current condition. By agreeing to install new replacement facilities that it will own and operate, although it was not legally required to do so, Columbia Gas has demonstrated a willingness to collaborate with the Gas Safety Division that underscores the Company's commitment to providing safe and reliable natural gas distribution service.

23. In the process of negotiating this Settlement Agreement, the factors discussed in Paragraph 16 through 22 were considered to be the most relevant factors for Columbia Gas. All of the other factors set forth in Section 69.1201 were considered, however, but are not believed to be particularly applicable to this matter. The Settlement Agreement recognizes Columbia Gas' good faith efforts to comply with the regulations.

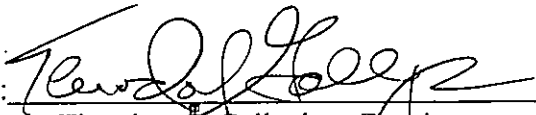
24. Columbia Gas submits that both Parties' efforts have resulted in fair and equitable settlement that is in the public interest. The Commission has consistently encouraged settlements to avoid the time and expense associated with litigation. The parties submit that the Settlement Agreement is in the public interest because it recognizes the alleged incidents, while effectively addressing and resolving the issues raised by the investigation, and avoids the time

and expense of litigation, which entails hearings, filings of briefs, exceptions, reply exceptions, and appeals. The Company has also agreed to pay a civil penalty and to comply with the Commission's Regulations. The Settlement Agreement clearly meets the standards set forth in Section 69.1201.

WHEREFORE, Columbia Gas of Pennsylvania, Inc. respectfully requests that the Pennsylvania Public Utility Commission adopt an order approving the terms of the Settlement Agreement as being in the public interest.

Respectfully submitted,

Columbia Gas of Pennsylvania, Inc.

By: 

Theodore J. Gallagher, Esquire
Senior Counsel
NiSource Corporate Services Co.
121 Champion Way, Suite 100
Canonsburg, PA 15317
724.416.6355
tjgallagher@nisource.com

Dated: February 3, 2014

RECEIVED
2014 FEB -6 PM 2:46
PA PUC
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Pennsylvania Public Utility Commission,
Bureau of Investigation and Enforcement** :

v. :

Columbia Gas of Pennsylvania, Inc. :

Docket No. M-2014-230607

**RECEIVED
2014 FEB -6 PM 2:45
PA PUC
SECRETARY'S BUREAU**

**STATEMENT IN SUPPORT OF SETTLEMENT AGREEMENT
OF THE BUREAU OF INVESTIGATION AND ENFORCEMENT**

The Pennsylvania Public Utility Commission's Bureau of Investigation and Enforcement ("I&E") submits this Statement in Support of Settlement Agreement at the above docket. The specific terms of the Settlement Agreement, comprised of both monetary and non-monetary relief, are found at Paragraphs 93 through 97 of the Settlement Agreement. I&E submits that the settlement as memorialized by the Settlement Agreement was amicably reached by I&E and Columbia Gas of Pennsylvania, Inc. ("Columbia Gas" or "Company")(collectively referred to as "Parties") after extensive discussions, in-person meetings and review of multiple drafts of the settlement documents. The settlement fairly and equitably balances the duty of the Pennsylvania Public Utility Commission ("Commission") to protect the public interest, the Company's customers, and the Company. If approved without modification, the Settlement

Agreement fully and completely resolves the issues investigated by I&E at this docket involving multiple incidents including valve inspection procedures, excessive pipeline pressures and related company protocols, excavation damage and related company response protocols and lack of pressure regulation devices, all of which occurred or were discovered from 2011 through 2013.

These incidents were each separately investigated by the Commission's Gas Safety Division ("GSD") before being referred to I&E. An informal investigation was initiated by I&E which consolidated the various matters for administrative efficiency into a single docket. I&E's informal investigation concluded that sufficient data had been gathered to substantiate allegations of violations of the Public Utility Code and/or other applicable statutes and regulations in connection with the actions of Columbia Gas and/or its employees with regard to each named incident. Upon notifying the Company of I&E's conclusion, the Parties entered into settlement discussions in an effort to avoid a formal proceeding. The resulting settlement as memorialized in the Settlement Agreement is fair, just and reasonable and, therefore, should be approved. I&E respectfully requests that the Commission approve the Settlement Agreement in its entirety, without modification.

The Settlement Agreement sets forth the following terms, as follows:

- a. Pursuant to 66 Pa.C.S.A. § 3301(c),¹ Columbia Gas will pay a civil penalty of one hundred ten thousand (\$110,000) dollars. Said payment

¹ The first four incidents included in this consolidated settlement fall under the pre-Act 11 penalties outlined in 66 Pa.C.S.A. § 3301 with a maximum civil penalty of \$10,000 per violation and \$200,000 for any related series of violations. The remaining five matters fall under the current language of Section 3301 since they occurred subsequent to the effective date of Act 11. For these five matters, the maximum civil penalty is \$200,000 per violation and \$2,000,000 for any related series of violations.

shall be made by certified check payable to "Commonwealth of Pennsylvania" and forwarded to the Commission through the prosecuting attorney within thirty (30) days of the date of the Order approving this Settlement.

b. Columbia Gas has taken corrective action and implemented revisions to its operating procedures which will act as safeguards against similar incidents occurring in the future. The pertinent actions taken or to be taken by Columbia Gas are briefly described as follows:

- i. Columbia Gas shall provide a district regulator station at the connection of D-1810 in Allegheny County to Columbia Transmission 1570 pipeline to prevent operating D-1810 at a pressure higher than the maximum allowable operating pressure;
- ii. Columbia Gas shall provide a list of all single feed district regulator stations for Columbia Gas that do not have a recording gauge at this time;
- iii. Columbia Gas shall install recording gauges at all identified stations at a rate of 80 (eighty) units per year, beginning July 1, 2013, until all the stations identified above have had gauges installed. Further, Columbia Gas shall, at 6 month intervals, conduct twice annual meetings with the Gas Safety Division to review the status of the installation program and the remaining installation priorities;
- iv. Columbia Gas shall provide a list of all single feed district regulator stations for Columbia Gas that do not have a relief valve on the outlet side with no flow conditions for any 24 hour period;
- v. Columbia Gas shall provide a list of all district regulator stations for Columbia that are supplied from production gas either whole or in part;
- vi. Columbia Gas shall provide and implement a design for the identified regulator stations to prevent accidental over pressure at the rate of 80 (eighty) units per year, beginning July 1, 2013, until all the stations identified above have had additional over-pressure installed. Further, Columbia Gas shall begin this program by addressing the single feed, low

pressure systems that do not currently have additional over-pressure protection. Further, Columbia Gas shall, at 6 month intervals, conduct twice annual meetings with the Gas Safety Division to review the status of the installation program and the remaining installation priorities;

- vii. Columbia Gas shall provide a process for evaluating operating personnel for determining abnormal operating conditions and provide a record for this process;
- viii. Columbia Gas shall adopt as its baseline OQ Training and Testing methodology the “Virginia Enhanced OQ Training and Testing Protocol” as the covered tasks in that protocol become available to the industry, with the exception that Columbia Gas shall not be required to include construction covered tasks in its baseline OQ Training and Testing methodology. In consultation with the Gas Safety Division, Columbia Gas may amend its baseline OQ Training and Testing methodology to address issues that are unique to Pennsylvania and/or Columbia Gas. Using this new process Columbia will qualify it’s new employees and new contractor employees to this new standard as they are hired, and current employees and contract employees as their existing qualifications expire; and
- ix. Columbia Gas shall perform annual inspections of any distribution system valve used to close the system in a natural gas emergency that was not designated a necessary or emergency valve at the time of the emergency (and therefore was not a valve that was inspected annually.) After six (6) annual inspections, if the valve has not again been used in an emergency, the annual inspections may cease. If during that six year period the valve has been used again to close the system in an emergency, Columbia Gas will reclassify that valve as an emergency valve and conduct an inspection once every calendar year, not to exceed fifteen (15) months.

In addition to the civil penalty and operational modifications set forth above, Columbia Gas agrees to resolve a master meter issue, referred to herein as the “Delong Farm Tap,” as follows:

a. The Delong Farm Tap is a "master meter system" located at Fullerton Road in Bradford, Pennsylvania that is owned and operated by Ms. Casey Delong and served by Columbia Gas. The system is a "farm tap"-type arrangement whereby the landowner is served by a private gas line connected directly to distribution facilities, and the private gas line from its connection to the distribution facilities to the premise(s) belongs to the landowner.

b. There are currently a total of eight (8) consumers connected to and taking gas from the Delong Farm Tap. Columbia Gas facilities serving the Delong line consist of a tap off of an interstate pipeline owned and operated by Columbia Gas Transmission, LLC and a meter that measures consumption on the customer-owned system. Neither Columbia Gas nor any related company owns any facilities downstream of Columbia's meter. There are privately-owned meters at each of the eight premises served by the Delong line. Ms. Delong is billed by Columbia Gas for the usage on the Delong line as measured at Columbia's meter and then, presumably, Ms. Delong is responsible for collecting payment from each of the premises on the system based on the usage measured on the private meters at each premise. As consumers on the Delong line continued to utilize the gas but failed to contribute to the payment for the gas, Ms. Delong sought the assistance of the Commission's Gas Safety Division (GSD).

c. I&E and Columbia Gas have held numerous meetings and discussions in an effort to resolve Ms. Delong's concerns. I&E's GSD expressed a desire to have Columbia Gas take over the Delong line whereby Ms. Delong and each of the other customers on the line would be served and individually billed by Columbia Gas. Columbia Gas advised that it would need to install new facilities in order to provide such service. Given the estimated cost to install such facilities, it was deemed impractical to assume that these eight customers would be willing to pay the difference between the maximum allowable investment to serve them and the capital expenditure necessary for such installation.

d. As a means of resolving GSD's concerns regarding the Delong line, the Parties herein have agreed to a lesser monetary civil penalty than originally sought by I&E regarding the alleged overpressure violations in exchange for the installation by Columbia Gas of facilities that would replace the Delong Farm Tap facilities and would serve and bill the consumers currently connected to the Delong line who so desired to continue to be served by Columbia Gas. Columbia Gas expects to make an investment in new facilities of approximately \$200,000 to replace the Delong Farm Tap. Columbia Gas will not be precluded from recovering its

reasonable costs related to this facilities investment, to a maximum recovery of \$200,000.

The Parties have reached a successful and innovative resolution in this matter. By incorporating into the relief garnered by I&E an immediate resolution to a separate, and serious service and facilities issue referred to as the Delong Farm Tap, Columbia Gas has agreed to not only resolve GSD's concerns regarding the individual overpressure matters and other pipeline issues that are the bases for violations alleged by I&E, but has also formulated a solution to another item on GSD's agenda that will improve facilities and clarify ownership and responsibility and restore a level of safety to the service being provided to what were the Delong Farm Tap customers. In addition to incurring the cost of the Delong Farm Tap solution estimated to be \$200,000 and accepting the specified non-monetary terms, Columbia Gas has agreed to pay a monetary settlement amount of \$110,000. The combined monetary cost to Columbia Gas of over \$300,000 exceeds the civil penalty amount that I&E would likely otherwise have reached in an amicable settlement regarding the consolidated overpressure issues alone. Accordingly, I&E is confident that the settlement terms agreed to by the Parties in this matter is in the public interest. The Parties are hopeful that swift resolution of this matter by entering into this Settlement Agreement will act to deter unsafe practices and improve implementation of the Company's operational procedures as well as expedite a resolution to service issues plaguing Ms. DeLong and the other customers of the Delong Farm Tap. Consequently, it is the position of I&E that the resulting Settlement Agreement achieves all of the goals that would have been sought to be attained through the filing of a formal complaint and

more, and that the resolution reached is formulated in an administratively efficient and economically effective manner.

The Settlement Agreement, in its entirety, achieves all of the results sought to be obtained by I&E had it filed a formal complaint. The Settlement Agreement allows the Parties to avoid the time and expense of litigation, including but not limited to, discovery, preparation of witness testimony, hearings, briefs, exceptions and appeals. Without the need for an evidentiary proceeding, the Company is now free to concentrate on the implementation of improvements to the Company's procedures and its facilities and to move forward with replacing the facilities serving the DeLong Farm Tap customers. As a result of all of the above, the Settlement Agreement should be found by this Commission to be in the public interest.

Approval of this Settlement Agreement is consistent with the Commission's Policy Statement, *Factors and standards for evaluating litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations – statement of policy*, at 52 Pa. Code § 69.1201 ("Policy Statement"). Under the Policy Statement, the Commission specifically recognized that in settled cases the parties "will be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is in the public interest." 52 Pa. Code § 69.1201(b).

This Policy Statement promulgated by the Commission sets forth ten (10) factors and standards to be considered by the Commission in evaluating whether a proposed settlement and the agreed to civil penalty is reasonable and in the public interest. The first standard addresses whether the conduct at issue was of a serious nature. 52 Pa.

Code § 69.1201(c)(1). The acts of exceeding allowable pipeline pressures and related company protocols, damaging facilities during excavation and related company response protocols and lacking pressure regulation devices are, in and of themselves, inherently serious in nature and were so considered in arriving at whether to proceed with the filing of a formal complaint or, in the alternative, to seek an amicable settlement resolution, as well as in determining the overall monetary penalty to be assessed. I&E's investigation indicated that the implementation of and adherence to enhanced Company procedures as well as the enhancement of the Company's pipelines and associated facilities were paramount necessities. The terms and conditions of this Settlement Agreement acknowledge the seriousness of the incidents and are designed to address GSD's concerns with the goal of enhancing the Company's procedure compliance as well as improving the overall safety and reliability of its service and facilities.

The second standard addresses whether the resulting consequence of the conduct in question was of a serious nature. 52 Pa. Code § 69.1201(c)(2). It is I&E's position, with public safety as a paramount concern, that the resulting consequences of the incidents consolidated for this settlement, despite various mitigating factors, are of a serious nature.

The third standard addresses whether the conduct was intentional or unintentional. 52 Pa. Code § 69.1201(c)(3). Since this standard may apply to litigated proceedings and this matter has instead resulted in an amicable Settlement Agreement, it is not applicable here.

The fourth standard addresses whether the Company made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. 52 Pa. Code § 69.1201(c)(4). As set forth in the “Terms and Conditions of Settlement” section of the Settlement Agreement, Columbia Gas has implemented or is implementing a process of improvements including installation of district regulator stations, installation of recording gauges to single feed district regulator stations that do not already have such recording gauges, enhancement of overpressure protection for identified regulator stations to prevent accidental overpressure, meeting with the Commission’s Gas Safety Division at periodic intervals to review the status of relief efforts, performance of annual inspections on distribution system valves not designated as necessary or emergency valves but used to close the system in an emergency and re-designating such valve as an emergency valve if so warranted under the terms of the settlement. All of these remedial actions are consistent with the Commission’s charge to ensure that natural gas facilities in Pennsylvania are fully capable of providing safe and reliable service to their customers. As such, I&E is satisfied that the Company is taking important steps to address I&E’s concerns and decrease the likelihood of similar incidents in the future.

In the process of negotiating this Settlement Agreement, the remaining factors in the Policy Statement were also considered. Specifically, the Parties reviewed the number of customers affected, the compliance history of the Company, the Company’s cooperation with the Commission, and the monetary penalty necessary not only to deter future violations, but to recognize alleged violations in the past. In reaching its agreed to

monetary settlement amount, I&E was cognizant of the compliance history of Columbia Gas as well as the revised civil penalty structure implemented in the Commission's regulations in April 2012. I&E is satisfied that the incidents that were the focus of this investigation are adequately addressed by the terms agreed to and has concluded that, with this Settlement Agreement, the Company has taken appropriate remedial measures, *and agreed to sufficient monetary remuneration. The Settlement Agreement was amicably negotiated and recognizes the Respondent's good faith efforts to comply with the Commission's regulations.*

I&E submits that settlement of this proceeding avoids the necessity for the prosecuting agency to prove the elements of each alleged violation. In return, the opposing party in a settlement generally avoids the possibility of a greater fine or penalty or realizes other benefits related to avoiding a litigated proceeding. Both parties negotiate from their initial litigation positions. The fines and penalties in a litigated proceeding are generally different from those that result from a settlement.

The instant Settlement Agreement is in the public interest because it effectively addresses the allegations identified by I&E's investigation, avoids the time and expense of litigation which entails discovery, hearings, filings of briefs, exceptions, reply exceptions, and possible appeals. The Company has also agreed to pay a fair and equitable monetary settlement amount and take measures to improve compliance with its operational procedures. Moreover, the Settlement Agreement clearly meets the standards set forth in the Commission's Policy Statement at 52 Pa. Code § 69.1201.

Commission Rules and Regulations encourage the settlement of proceedings. For this matter in particular, I&E emphasizes that, with the incidents that were the subject of this investigation, it is in the public interest to allow Columbia Gas to pay a fair, monetary settlement and to move forward in the implementation of operational measures that will act to enhance the safety of the public as well as Columbia Gas employees and bolster its efforts to adhere to state and federal gas safety regulations. Columbia Gas and I&E convened several telephonic and in-person meetings and discussions during the course of this proceeding. These discussions ultimately resulted in the foregoing Settlement Agreement which is a full and final resolution of the Commission's investigation. The Parties have asserted that approval of this settlement is consistent with the Commission's Policy Statement at 52 Pa.Code § 69.1201, *Factors and standards for evaluating litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations – statement of policy*.

In addition to the foregoing reasons, based upon I&E's analysis of these matters, acceptance of this proposed settlement is in the public interest because resolution of this case by settlement rather than litigation will avoid the substantial time and expense involved in continuing to formally pursue all allegations in this proceeding. Moreover, acceptance of the Settlement Agreement at this time will ensure that the Company will immediately implement measures to strengthen compliance with the Company's operational procedures as enumerated in the Settlement Agreement.

WHEREFORE, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission represents that it supports the settlement of this matter as memorialized by the executed and filed Settlement Agreement as being in the public interest and respectfully requests that the Commission approve the foregoing Settlement Agreement, including all terms and conditions contained therein, without modification.

Respectfully submitted,



Wayne T. Scott, First Deputy Chief Prosecutor
Michael L. Swindler, Prosecutor
Bureau of Investigation and Enforcement

Dated: February 5, 2014

RECEIVED
2014 FEB -6 PM 2:46
PA PUC
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the persons listed and in the manner indicated below:

Notification by first class mail addressed as follows:

Theodore J. Gallagher, Esquire
Senior Counsel
NiSource Corporate Services Co.
121 Champion Way, Suite 100
Canonsburg, PA 15317



Michael L. Swindler
Prosecutor
PA Attorney ID No. 43319
(Counsel for Pennsylvania Public Utility
Commission, Bureau of Investigation and
Enforcement)

P.O. Box 3265
Harrisburg, PA 17105-3265
(717) 783-6369

Dated: February 6, 2014

RECEIVED
2014 FEB -6 PM 2:45
PA PUC
SECRETARY'S BUREAU