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| **PENNSYLVANIA****PUBLIC UTILITY COMMISSION****Harrisburg, PA 17105-3265** |
|  |  Public Meeting held September 11, 2014 |
| Commissioners Present:Robert F. Powelson, ChairmanJohn F. Coleman, Jr., Vice ChairmanJames H. CawleyPamela A. WitmerGladys M. Brown |
| Pennsylvania Public Utility Commission, Bureau of Investigation and Enforcement  v. Columbia Gas of Pennsylvania, Inc. |  M-2014-2306076 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition is a Settlement Agreement (Settlement) filed on February 6, 2014, by the Commission’s Bureau of Investigation and Enforcement (I&E) and Columbia Gas of Pennsylvania, Inc. (Columbia Gas or Company) (collectively, Parties). Each Party also filed a Statement in Support of the Settlement and a Supplemental Statement in Support of the Settlement. For the reasons set forth herein, we shall conditionally approve the Settlement, as modified by this Opinion and Order.

**History of the Proceeding**

This matter concerns an informal investigation initiated by I&E at the request of the I&E Gas Safety Division (GSD). The GSD’s initial investigation involved separate investigations of various incidents, including those relating to valve inspection procedures; excessive pipeline pressures and related Company protocols; excavation damage and related Company response protocols; and lack of pressure regulation devices. The GSD’s initial investigation suggested that a further investigation was warranted to determine whether the actions of Columbia Gas or its third-party contractor (Contractor) violated state regulations, federal regulations, and/or the Company’s operating procedures. I&E consolidated the various matters into a single docket for purposes of the informal investigation.

By letters dated August 30, 2012, and January 30, 2013, I&E requested that Columbia Gas provide responses to various data requests. Based on its investigation, I&E concluded that sufficient data had been gathered to substantiate allegations of violations of the Public Utility Code (Code), 66 Pa. C.S. §§ 101 *et seq.*, and state and federal gas safety regulations.

The Parties entered into negotiations and agreed to resolve this matter in accordance with the Commission’s policy to promote settlements at 52 Pa. Code § 5.231. The Parties filed the instant Settlement on February 6, 2014.

By Order entered June 5, 2014 (*June 2014 Order*), we provided interested parties with the opportunity to file comments on the proposed Settlement, pursuant to Section 3.113(b)(3) of our Regulations, 52 Pa. Code § 3.113(b)(3), within twenty days from the entry date of the Order. We have not received any comments.

At the Public Meeting of June 5, 2014, Commissioners James H. Cawley and Pamela A. Witmer issued a Joint Statement, asking the Parties to provide responses to directed questions in order to assist the Commission in reviewing the Settlement. The directed questions were as follows:

1. Describe remedial actions that have been taken to date to address the alleged violations identified in the Settlement.

2. Provide an estimate of the total number of recording gauges at identified stations that do not have a recording gauge at this time, how many stations will require a design change to prevent accidental over-pressuring, and how many of these units are single-feed, low pressure systems without over-pressure protection.

3. Explain why the investment in the issue referred to as the Delong Farm Tap and associated meters justifies a lower penalty when the Settlement contemplates recovery of this investment, to a maximum of $200,000.

4. Explicitly explain what, if any, risk Columbia Gas bears regarding recovery of its investment in the issue referred to as the Delong Farm Tap.[[1]](#footnote-1) Is Columbia Gas guaranteed recovery of these costs up to $200,000 in its next filed rate case? Explain situations where Columbia Gas might not recover costs up to $200,000.

5. Have each of the privately metered accounts on the Delong Farm Tap agreed to take service from Columbia Gas? If not, how will Columbia Gas handle any instance where a Delong Farm Tap customer refuses service from Columbia Gas?

6. Describe in detail how the additional training and testing requirements pursuant to paragraphs 95(b)(vii) and (viii)[[2]](#footnote-2) of the Settlement will correct *each* of the

nine alleged incidences described in [the *June 2014 Order*].

Joint Statement at 1-2.

In response to the Joint Statement, I&E filed a Supplemental Statement in Support of the Settlement on June 24, 2014, and Columbia Gas filed a Supplemental Statement in Support of the Settlement on June 26, 2014.

**Background**

**1. Operating Valves P-2913 and P-2914**

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 p.m., the excavator’s trackhoe hit a Columbia Gas two-inch plastic gas main operating at 40 psig. Upon puncturing the gas main, the operator got off the trackhoe, and the gas ignited. The trackhoe was destroyed by the ensuing fire. Columbia Gas was notified of the incident at 3:25 p.m., and a Columbia Gas employee arrived at the incident site at 3:49 p.m. A Columbia Gas supervisor called gas measurement personnel to the site to start the pipeline shut down process.

Columbia Gas service personnel determined that closing 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. Columbia Gas service personnel decided to close Valves P-2913 and P-2914, rather than the four designated emergency valves, in order to limit the number of customers out of service to twenty-eight customers. Settlement at 5. Columbia shut down approximately 9,000 feet of pipe at 6:35 p.m. According to available records, Valves P-2913 and P‑2914 had not been inspected since 1993. *Id*. at 6.

As a result of this incident, I&E averred that the valves in question were not checked and serviced at intervals not exceeding fifteen months, or at least once each calendar year. I&E alleged that, if proven, this would constitute a violation of 49 C.F.R. § 192.747(a). Settlement at 6.

**2. Pipeline D-1810 (Overpressure)**

Pipeline D-1810 is a Columbia Gas steel transmission pipeline located in Allegheny County. 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. *Id*. 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. *Id*. at 7.

I&E alleged that Columbia Gas operated Pipeline D-1810 at a pressure that exceeded the MAOP, and if proven, this would be a violation of 49 C.F.R. § 192.619(c). Settlement at 7.

**3. Operating Pressure Violation in Somerset County (New Enterprise)**

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. *Id*. The New Enterprise system has a MAOP of 60 psig based on the pressure test of the pipeline after installation. The Regulator Station 4189 that controls the gas pressure into the New Enterprise system 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. *Id*. at 8.

I&E alleged that Columbia Gas operated the New Enterprise system at a pressure that exceeded the plastic pipe test pressure divided by a factor of 1.5, which, if proven, would be a violation of 49 C.F.R. § 192.619(a)(2)(i). I&E also alleged that 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. I&E indicated that, if proven, this would be a violation of 49 C.F.R. § 192.195(b)(1) and (2). I&E further alleged that, if proven that the New Enterprise system was operating at a pressure of 74 psig, this would be a violation 49 C.F.R. § 192.201(a)(2)(i), because pressure relieving and limiting stations for pipelines that have a MAOP of 60 psig must be set to operate at a maximum pressure of 66 psig. Settlement at 8.

**4. Operating Pressure Violation in Washington County (Scenery Hill)**

On April 11 and 12, 2011, Columbia Gas discovered that 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. 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. The cause of this overpressure was determined to be debris found in the control and monitor regulator at Regulator Station 4062.

I&E averred that 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. I&E alleged that, if proven, this would be a violation of 49 C.F.R. § 192.195(b)(1) and (2). I&E stated that 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. I&E indicated that, if proven, this would be a violation of 49 C.F.R. § 192.199(g). Settlement at 9. According to I&E, 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. I&E contended that, if proven that the Scenery Hill system was operating at pressures of 11 and 12 psig, this would be a violation 49 C.F.R. § 192.201(a)(2). Settlement at 10.

**5. Overpressure of the Downstream Pipelines at the Carson Street Regulator**

**Station 4135 in Connellsville.**

On July 21, 2012, Columbia Gas was notified of a gas odor at the Carson Street Regulator Station 4135. The Company service personnel discovered gas blowing from the regulator and turned the matter over to the Company’s Gas Measurement and Regulation personnel. The Columbia Gas Measurement and Regulation personnel discovered that the downstream pressure of the regulator station reached 20 psig. The MAOP for the downstream pipeline system is 5 psig. The Columbia Gas Measurement and Regulation personnel found that the bypass valve had leaked high pressure gas into the 5 psig system. I&E alleged that there was inadequate relief to prevent the system pressure from reaching 20 psig. The Columbia Gas Measurement and Regulation personnel repaired the bypass valve and tested and checked the regulator equipment. I&E averred that the Company reset the station pressure and did not report the overpressure condition to anyone before leaving the site. *Id*.

On July 23, 2012, the Columbia Gas Measurement and Regulation personnel advised the acting Operations Center Manager of the overpressure found and corrected two days earlier. The acting Operations Center Manager began an immediate leak survey of the affected downstream system as well as an investigation of the communications delay. A Class 1 leak was identified at 1415 Carson Street on the customer service line, and the service line was shut off immediately.

The two involved Columbia Gas Measurement and Regulation personnel 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 concluded that neither Company employee met the definition of “Qualified” as set forth in 49 C.F.R. § 192.803, because neither recognized nor properly reacted to the overpressure of the downstream piping at the Carson Street Regulator 4135. I&E explained that NiSource Distribution Operations Gas Standard number GS1150, “Response to Overpressure” states as follows: “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.” Settlement at 11. I&E alleged that the Columbia Gas personnel did not report this overpressure to the dispatcher until July 23, 2012, and that this delayed the Company’s required response to leak survey the pipelines that were over-pressured. *Id*. at 11-12. According to I&E, 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 the Company failed to maintain records to indicate that the employees in question answered the abnormal operating condition questions correctly. I&E contended that Columbia Gas neither retains individual test results for each person, nor measures retention rates upon providing the correct answers to missed questions. *Id*. at 12.

I&E averred that Columbia Gas had a regulator station design that allowed a bypass valve leak to create an overpressure condition in the downstream system on July 21, 2012. I&E indicated that the MAOP of the main and service pipelines is 5 psig, and, on that particular date, the pressure was 20 psig. I&E alleged that, if proven, this would be a violation of 49 C.F.R. § 192.195(b)(2). I&E stated that 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. Settlement at 12. I&E contended that, if proven, this would be a violation of 49 C.F.R. § 192.13(c). I&E additionally alleged that Columbia Gas failed to ensure through evaluation that individuals performing covered tasks were qualified, and if proven, this would be a violation of 49 C.F.R. § 192.805(b). Settlement at 13.

**6. Excavation Damage of Pipeline D-1810 in Collier Township**

On July 21, 2012, at 1:13 p.m., Columbia Gas was notified by Allegheny County 911 of excavation damage at 1273 Washington Pike in Collier Township, Pennsylvania, which was caused by a third party installing guard rail posts. Pipeline D‑1810 operates at 170 psig in the area of the damaged pipe. According to I&E, Columbia Gas personnel 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 p.m., and the repairs to the pipeline were completed by 2 a.m. on July 22, 2012. *Id*.

Columbia Gas had received seven PA One Call notices from the third-party guard rail installer from April 12, 2012, to July 11, 2012, and the Company responded to six of the notices that the facilities were marked. The Columbia Gas locating personnel located Pipeline D-1810 at both ends of the notices and found the pipe in the street. I&E contended that the Company personnel knew the 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. I&E also contended that the Company’s locate personnel failed to locate Pipeline D-1810 between the intersections to determine if the buried pipeline would be in the area of excavation. I&E further contended 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. *Id*. at 14.

I&E indicated that none of the Columbia Gas personnel met the definition of “Qualified” in 49 C.F.R. § 192.803, because they did not recognize or react to the abnormal operating condition of no marks for Pipeline D-1810 through the entire locate request. Settlement at 14. I&E explained that the Company’s “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 [twenty-five] feet beyond established work zone ([fifty] 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.” I&E stated that 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. Settlement at 15.

I&E averred that there were no records maintained by the Company to indicate that the employees in question answered the abnormal operating condition questions correctly. I&E indicated that Columbia Gas neither retains individual test results for each person, nor measures retention rates upon providing the correct answers to missed questions. I&E also averred that no marks are an abnormal operating condition for this task and if any 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. *Id*.

 I&E alleged that 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 and, if proven, this would be a violation of 49 C.F.R. § 192.614(c)(5). Settlement at 15-16. I&E stated that Columbia Gas personnel responding to the pipeline locates failed to mark Pipeline D-1810 within the scope of the locate request and, if proven, this would be a violation of 49 C.F.R. § 192.805. I&E indicated that Columbia Gas failed to ensure through evaluation that individuals performing covered tasks were qualified. I&E contended that, if proven, this would be a violation of 49 C.F.R. § 192.805(b). Settlement at 16.

**7. Overpressure of the Downstream Pipelines at Regulator Station 4853**

**near West Newton**

On June 24, 2013, the Columbia Gas Company Chart for Regulator Station 4853 indicated a spike in pressure from 49 psig at approximately 11 a.m. to 85 psig at approximately 12 p.m. The pressure began to drop until it reached the MAOP of the system at 60 psig at 3 a.m. on June 29, 2013. Columbia Gas personnel did not discover the over-pressure of 25 psig until the chart was removed on July 15, 2013. When the over-pressure was discovered, an investigation into the cause of this issue began and 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. *Id*. Columbia Gas Transmission personnel contacted the responsible Columbia Gas supervisor and told him they were putting this well on line. The Columbia Gas supervisor did not notify anyone of Columbia Gas Transmission’s intentions. *Id*. at 17.

I&E alleged that, according to the chart, the 60 psig MAOP was exceeded for four days and fifteen hours. If proven, this would be a violation of 49 C.F.R. §§ 192.13(c), 192.195, 192.605(b)(5) and 192.619(a). Settlement at 17.

**8. Overpressure of the Downstream Pipelines at Regulator Station 4092 in**

**Dunbar Township**

On June 25, 2013, Columbia Gas Measurement & Regulation Technicians arrived at Regulator Station 4092 in Dunbar Township to inspect the station. 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. 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. *Id*. 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 that the regulator station could be removed. *Id.* at 18.

I&E alleged that the 4 psig MAOP was exceeded for an undetermined amount of time, and if proven, this would be a violation 49 C.F.R. §§ 192.195(b)(2) and 192.619(a). Settlement at 18.

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

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, Pennsylvania. The technician found that the system pressure upstream of the regulators was 31 psig, and the downstream pressure was 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. The regulator and monitor overpressure protection were inspected and found to be functioning properly. Columbia determined that the source of the failure was a leaking bypass valve that allowed gas to bypass the regulators and build up pressure downstream of the regulator and the overpressure protection. *Id*.

I&E alleged that the 5 psig MAOP was exceeded by 21.5 psig, and, if proven, this overpressure would be a violation of 49 C.F.R. §§ 192.13(c) and 192.619(a). Settlement at 19.

I&E contended that all of the above allegations resulted in an increased danger to the public in violation of Section 1501 of the Code, 66 Pa. C.S. § 1501. Settlement at 19.

While Columbia Gas may dispute or disagree with some or all of the alleged violations, the Company fully acknowledges the seriousness of the allegations. *Id*.

**Terms of the Settlement Agreement**

The Parties entered into the Settlement to resolve this matter fully and completely without litigation in a formal proceeding. The Parties have agreed to the following Settlement terms:

a. Pursuant to 66 Pa. C.S. § 3301(c), Columbia Gas will pay a civil penalty of one hundred ten thousand ($110,000) dollars.[[3]](#footnote-3) 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 [six] 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 [twenty-four] hour period;

v. Columbia Gas shall provide a list of all district regulator stations for Columbia [Gas] 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 [six] 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; 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.

Settlement at 20-22.

In addition to the civil penalty and operational modifications described above, Columbia Gas has agreed to resolve a master meter issue, referred to herein as the “Delong Farm Tap.” As customers on the Delong line continued to receive the gas but failed to contribute to the payment for the gas, Ms. Delong sought the assistance of the GSD. *Id*. at 22. I&E and Columbia Gas indicated that they have held numerous meetings and discussions in an effort to resolve Ms. Delong’s concerns. *Id*. I&E’s GSD wanted Columbia Gas to take over the Delong line so that Ms. Delong and 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. Columbia Gas averred that, due to the estimated cost to install new facilities, it would be impractical to assume that the customers would be willing to pay the difference between the maximum allowable investment to serve them and the capital expenditure necessary for the installation. *Id*. at 23.

In order to resolve the GSD’s concerns, the Parties agreed to a lesser monetary civil penalty than originally sought by I&E regarding the alleged over-pressure violations, and Columbia Gas agreed to install facilities that would replace the Delong Farm Tap facilities and to serve and bill the customers currently connected to the Delong line who intended to continue to be served by Columbia Gas. Columbia Gas expects to invest approximately $200,000 in new facilities to replace the Delong Farm Tap. As such, the Parties have agreed that “Columbia Gas will not be precluded from recovering its reasonable costs related to this facilities investment, to a maximum recovery of $200,000.” *Id*.

 In consideration of the Company’s agreement to pay a civil penalty and other non-monetary relief, as set forth in the Settlement, I&E agrees to forebear from instituting any formal complaint that relates to the matters described in the Settlement and the related conduct of the Company, its employees, and its Contractor’s employees, as described in the Settlement. The Parties state that nothing contained in the Settlement 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 incidents, except that no further sanctions may be imposed by the Commission for any actions identified in the Settlement. *Id*. Additionally, none of the provisions of the Settlement or the statements in the Settlement shall be considered an admission of any fact or culpability. *Id*. at 25. As the Settlement does not make any findings of fact or conclusions of law, the Parties intend that the Settlement and the Statements in Support thereof not be admitted as evidence in any potential civil proceeding involving this matter. *Id*. at 26.

The Settlement is conditioned upon the Commission’s approval of its terms and conditions, without modification. The Parties reserve the right to withdraw from the Settlement if it is modified. *Id*. at 25.

**Discussion**

Initially, we note that any issue or argument that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the Parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *also see, generally*, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

**Supplemental Statements in Support of the Settlement**

**1. Describe remedial actions that have been taken to date to address the alleged violations identified in the Settlement.**

 I&E states that, on June 30, 2013, the Compliance Manager for NiSource, the parent company of Columbia Gas, agreed to install extended recording device gauges and necessary relief valves on all single feed regulator stations in Columbia Gas’s distribution system, as determined by the GSD, by July 1, 2018. I&E Supplemental Statement in Support at 2. I&E indicated that Columbia Gas and the GSD also agreed that a minimum of eighty gauges and eighty relief valves would be installed by June 30, 2014, and that GSD would check the progress of this installation at least twice yearly. *Id*. at 2-3.

 I&E avers that, on August 9, 2013, Columbia Gas installed a new regulator station to control the pressure in D-1810, and that the MAOP was reduced in the D-1810 pipeline as a result of the new regulator station. I&E also avers that, when a GSD Supervisor met with Columbia Gas on April 15, 2014, to review the progress of the gauge and relief valve installation, Columbia had installed forty-four gauges and sixty relief valves. I&E states that, on June 6, 2014, the GSD Supervisor met with Columbia Gas and found that eighty-three gauges and seventy relief valves had been installed to date. According to I&E, the GSD Supervisor was scheduled to meet with Columbia Gas on July 1, 2014, to ensure that eighty gauges and relief valves were installed by June 30, 2014. *Id*. at 3.

 In its Supplemental Statement in Support, Columbia Gas states that it has not used a distribution system valve that was not designated as a necessary or emergency valve in a natural gas emergency and, as such, the remedial action addressed by Paragraph 95(b)(ix) of the Settlement has not been necessary. Columbia Gas Supplemental Statement in Support at 1-2. Columbia also states that it has re-designated Valves P-2913 and 2914 as critical valves, and, as a result, these valves will be checked and serviced at intervals not exceeding fifteen months or at least once per calendar year. *Id*. at 2. Columbia Gas indicates that, in addition to installing a district regulator station at the connection of D-1810, it has installed secondary relief valves at the regulator stations located in New Enterprise, Scenery Hill, Carson Street, and Penn State University’s Grad Lab Building pursuant to Paragraph 95(b)(vi) of the Settlement. *Id*. at 2, 3.

**2. Provide an estimate of the total number of recording gauges at identified stations that do not have a recording gauge at this time, how many stations will require a design change to prevent accidental over-pressuring, and how many of these units are single-feed, low pressure systems without over-pressure protection.**

I&E explains that all single-feed, low pressure regulator stations have over-pressure protection to prevent an over-pressure from a regulator failure. I&E Supplemental Statement in Support at 3. I&E estimates that fifty-seven low pressure single-feed regulator stations require an additional pressure relief valve to prevent an over-pressure from a failure of the bypass valve. *Id*. at 3-4. I&E indicates that all low pressure single-feed stations will have the necessary relief valves by July 1, 2015. *Id*. at 4.

Columbia Gas responds that 192 electronic recording gauges remain to be installed, as it has installed ninety-two of the 284 recording gauges at identified stations. Columbia Gas also responds that 271 pressure relief devices remain to be installed, as the Company has installed eighty of the 351 pressure relief devices identified to be installed. Columbia Gas Supplemental Statement in Support at 4.

**3.** **Explain why the investment in the issue referred to as the Delong Farm Tap and associated meters justifies a lower penalty when the Settlement contemplates recovery of this investment, to a maximum of $200,000.**

The Parties explain that a lower civil penalty was negotiated based on Columbia Gas’s agreement to resolve a farm tap issue that is of concern to the GSD, but otherwise would be deemed non-jurisdictional and not Columbia Gas’s responsibility. I&E Supplemental Statement in Support at 4; Columbia Gas Supplemental Statement in Support at 4. I&E states that, while the farm tap configuration would be jurisdictional to the Pipeline and Hazardous Materials Safety Administration (PHMSA), PHMSA has informed the Commission that it will not inspect master meter systems in Pennsylvania and, therefore, the system lacked compliance oversight. I&E avers that, with Columbia Gas taking over the facilities beyond the master meter, it is much more likely that the system will be in compliance with state and federal gas pipeline safety regulations. I&E Supplemental Statement in Support at 4. I&E believes that the Company’s agreement to take on this responsibility, coupled with a safer environment for the impacted customers, warrants a decreased civil penalty. *Id*. at 5.

Columbia Gas states that, while the Settlement contemplates recovery of this investment, up to $200,000, the current estimate for the Company to install facilities to replace the Delong Farm Tap master meter system could amount to as much as $286,000, depending on the physical configuration of the point of delivery that will be required by Columbia Gas Transmission. Columbia Gas Supplemental Statement in Support at 4-5. The Company represents that it is attempting to minimize the cost of the point of the delivery; however, if the cost comes in at the high end, the Company’s total non-recoverable expenditures associated with the Settlement (civil penalty of $110,000, plus the cost of facilities above $200,000) could be close to $200,000. *Id*. at 5.

**4. Explicitly explain what, if any, risk Columbia Gas bears regarding recovery of its investment in the issue referred to as the Delong Farm Tap. Is Columbia Gas guaranteed recovery of these costs up to $200,000 in its next filed rate case? Explain situations where Columbia Gas might not recover costs up to $200,000.**

I&E responds that Columbia Gas bears the same risk of recovery that it would bear regarding any of its investments in any rate proceeding. I&E states that the Company would only be “guaranteed” recovery of this investment to the extent that it is able to recover the cost of the facilities through normal recovery mechanisms. I&E explains that Columbia Gas may raise a claim and seek to show that the expense is prudent, but the other parties to a rate proceeding would not be precluded from challenging the Company’s claim. I&E Supplemental Statement in Support at 5.

Columbia Gas states that, because the current estimate to install facilities to replace the Delong Farm Tap master meter system will exceed $200,000, it bears the risk of non-recovery for a significant portion of its investment in those facilities. Columbia Gas expects that it will be granted recovery of its prudent investment in those facilities up to $200,000 in a future base rate proceeding. Columbia Gas Supplemental Statement in Support at 5.

**5. Have each of the privately metered accounts on the Delong Farm Tap agreed to take service from Columbia Gas? If not, how will Columbia Gas handle any instance where a Delong Farm Tap customer refuses service from Columbia Gas?**

Columbia Gas indicates that it has waited to approach the individuals currently being served from the Delong Farm Tap, pending the Commission’s consideration and final ruling on the proposed Settlement. Columbia Gas avers that, if the individuals refuse service from the Company, they would be free to pursue an alternative form of energy. *Id*. However, Columbia Gas notes that, since most of the customers’ accounts are presumably currently equipped with gas burning appliances, the Company believes that refusal of natural gas distribution service from it would not likely be a viable economic option for these customers. *Id*. at 5-6.

**6. Describe in detail how the additional training and testing requirements pursuant to paragraphs 95(b)(vii) and (viii) of the Settlement will correct *each* of the nine alleged incidences described in the *June 2014 Order*.**

The Parties explain that the terms in Paragraph 95(b)(vii) and (viii) were intended to respond to two of the nine matters consolidated for investigation, specifically the “Overpressure of the Downstream Pipelines at the Carson Street Regulator Station 4135 in Connellsville” and “Excavation Damage of Pipeline D-1810 in Collier Township.” These matters resulted in alleged violations of 49 C.F.R. § 192.805(b). The Parties state that I&E alleged that Columbia Gas personnel failed to follow proper procedures regarding response to over-pressure, Columbia Gas personnel failed to mark underground facilities properly, and Columbia Gas failed to ensure that individuals were qualified to perform various tasks covered by 49 C.F.R. Part 192.

The Parties aver that the additional training and testing requirements set forth in the Settlement will ensure that Columbia Gas will: provide a process for evaluating operating personnel for determining that the personnel are trained and qualified to recognize and react properly to abnormal operating conditions; provide records regarding the operator qualification program; adopt, by December 31, 2014, the “Virginia Enhanced OQ Training and Testing Protocol;” and train and qualify its personnel for all covered tasks by December 31, 2017. I&E Supplemental Statement in Support at 6-7; Columbia Gas Supplemental Statement in Support at 6.

**Analysis of the Proposed Settlement**

 Pursuant to our Regulations at 52 Pa. Code § 5.231, it is the Commission’s policy to promote settlements. The Commission must, however, review proposed settlements to determine whether the terms are in the public interest. *Pa. PUC v. Philadelphia Gas Works*, Docket No. M-00031768 (Order entered January 7, 2004); *Pa. PUC v. CS Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991); *Pa. PUC v. Philadelphia Electric Co.*, 60 Pa. P.U.C. 1 (1985).

 The Code sets forth the maximum civil penalty amount that we may levy on public utilities for violations of a Commission Order, a Regulation, or a statute. Section 3301(c) of the Code, which governs civil penalties for gas pipeline safety violations, was amended by Act 11 of 2012. Prior to the amendment, Section 3301(c) provided that any public utility that violated any gas pipeline safety provisions of the Code “shall be subject to a civil penalty of not to exceed $10,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed $500,000 for any related series of violations, or subject to a penalty provided under federal pipeline safety laws, whichever is greater.” The amended Section 3301(c) now provides that any public utility that violates any gas pipeline safety provisions of the Code “shall be subject to a civil penalty of not to exceed $200,000 for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed $2,000,000 for any related series of violations, or subject to a penalty provided under federal pipeline safety laws, whichever is greater.” In this proceeding, the first four matters described in the Settlement fall under the pre-Act 11 civil penalties, while the remaining five matters fall under the current language of Section 3301(c), as they occurred after the April 14, 2012, effective date of Act 11.

The Commission has promulgated a Policy Statement at 52 Pa. Code

§ 69.1201 that sets forth ten factors to be considered in evaluating whether a civil penalty for violating a Commission order, regulation or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and approval of the settlement agreement is in the public interest. The Policy Statement sets forth the guidelines we use when determining whether, and to what extent, a civil penalty is warranted. In this case, application of these guidelines does not support approval of all of the Settlement terms as filed.

The first factor we may consider is whether the conduct at issue is of a serious nature. 52 Pa. Code § 69.1201(c)(1). “When conduct of a serious nature is involved, such as willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.” *Id*. Based on the information obtained during I&E’s investigation, we find that the actions of Columbia Gas and its Contractor constitute conduct of a serious nature. The conduct investigated by I&E involves 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. We agree with I&E that these gas safety incidents are inherently serious in nature. I&E Statement in Support at 8. As a result, we conclude that the actions of Columbia Gas and its Contractor in this case warrant a higher civil penalty.

The second factor we may consider is whether the resulting consequences of the conduct are of a serious nature. 52 Pa. Code § 69.1201(c)(2). “When consequences of a serious nature are involved, such as personal injury or property damage, the consequences may warrant a higher penalty.” *Id.* We acknowledge that there are mitigating factors in this case, such as that there were no personal injuries or property damage. Nevertheless, as a consequence of the actions of Columbia Gas and its Contractor, the public was put at greater risk of injury. Because public safety is a major concern when gas safety incidents occur, we consider the resulting consequences of the incidents consolidated for this Settlement to be of a serious nature.

The third factor pertains to litigated cases only. 52 Pa. Code
§ 69.1201(c)(3). Because this proceeding was settled prior to an evidentiary hearing, this factor is not applicable to this proposed Settlement.

 The fourth factor we may consider is whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. The amount of time it took the utility to correct the conduct once it was discovered and the involvement of top-level management in correcting the conduct may be considered. 52 Pa. Code § 69.1201(c)(4). In their Supplemental Statements in Support of the Settlement, the Parties have identified various remedial actions that Columbia Gas has taken to date to address the alleged violations set forth in the Settlement and to prevent similar future occurrences. These actions include: installation of extended recording device gauges and necessary relief valves on all single feed regulator stations in Columbia Gas’s distribution system, as determined by the GSD, by July 1, 2018; installation of a minimum of eighty gauges and eighty relief valves by June 30, 2014 (Columbia Gas has installed ninety-two recording gauges and eighty pressure relief devices identified to be installed); installation of a new regulator station to control the pressure in D-1810, which reduced the MAOP in the D-1810 pipeline; installation of secondary relief valves at the regulator stations located in New Enterprise, Scenery Hill, Carson Street, and Penn State University’s Grad Lab Building; and re-designation of Valves P-2913 and 2914 as critical valves, so these valves will be checked and serviced at intervals not exceeding fifteen months or at least once per calendar year.

 The Parties have also identified additional training and testing requirements set forth in the Settlement that will ensure that Columbia Gas will provide a process for evaluating operating personnel for determining that the personnel are trained and qualified to recognize and react properly to abnormal operating conditions: Columbia Gas will provide records regarding the operator qualification program; Columbia Gas will adopt, by December 31, 2014, the “Virginia Enhanced OQ Training and Testing Protocol;” and all Columbia Gas personnel will be trained and qualified for all covered tasks by December 31, 2017. Columbia Gas indicates that the measures it has agreed to perform under the Settlement are a result of direct negotiations between the GSD and the Company’s Vice President of Safety Compliance. Columbia Gas Statement in Support at 8. These commitments demonstrate that Columbia Gas is taking appropriate action to address the safety and reliability of the gas service it provides to customers and, thus, support a lower civil penalty.

The fifth factor we may consider is the number of customers affected and the duration of the violation. 52 Pa. Code § 69.1201(c)(5). While the Parties have not expressly addressed this factor in their Statements in Support of the Settlement, the Settlement indicates that at least twenty-eight customers were affected when Columbia Gas service personnel closed Operating Valves P-2913 and P-2914. Settlement at 5. It is unclear if other customers were affected by the consolidated incidents investigated by I&E. Considered as a whole, this factor does not support a substantial civil penalty.

We may also consider the compliance history of the regulated entity which committed the violation. 52 Pa. Code § 69.1201(c)(6). We have reviewed our records regarding complaints against, and investigations of, Columbia Gas in which the Company was directed to pay civil penalties during the past five years. During this time period, Columbia Gas has had only one other investigation initiated against it involving alleged gas safety violations concerning the Company’s failure to properly mark buried pipelines in an excavation area and failure to keep maps and records of its distribution system. Pursuant to a Joint Petition for Settlement, Columbia paid a $10,000 civil penalty. *See, Pa. PUC, Law Bureau Prosecutory Staff v. Columbia Gas of Pennsylvania, Inc*., Docket No. M-2009-1505396 (Order entered August 3, 2010).[[4]](#footnote-4) Based on our review, we find that Columbia Gas’s prior compliance history is satisfactory and supports a lower civil penalty amount.

Another factor we may consider is whether the regulated entity cooperated with the Commission’s investigation. 52 Pa. Code § 69.1201(c)(7). According to I&E, Columbia Gas cooperated with I&E in its investigation, and the Settlement was amicably negotiated and recognizes the Company’s good faith efforts to comply with the Commission’s Regulations. I&E Statement in Support at 10.

In addition, we may consider the amount of the civil penalty necessary to deter future violations, as well as past Commission decisions in similar situations. 52 Pa. Code § 69.1201(c)(8) and (c)(9). Given the high number of the alleged violations and the nature of the alleged violations in this case, we find that a civil penalty amount of $200,000 would be more appropriate under the circumstances in this case in order to deter Columbia Gas from future violations. We also find that this civil penalty amount is consistent with our prior decisions and the Code. As this amount falls within the lower end of the civil penalty amounts that we may impose under the Code, particularly since many of the matters subject to this consolidated Settlement occurred after Section 3301(c) was amended, we considered the mitigating factors in this case in arriving at this civil penalty amount, including the Company’s compliance history and the remedial measures the Company has been engaging in to ensure future compliance.

We commend the Company for agreeing to resolve the Delong Farm Tap issue that is of concern to the GSD and will likely result in the provision of safer and more reliable natural gas service to the customers currently receiving service from the Delong Farm Tap. Nevertheless, we do not believe that there is a sufficient nexus between the alleged violations in this proceeding and Columbia Gas’s actions regarding the Delong Farm Tap to serve as a justifiable reason for a lower civil penalty, nor do we believe that Columbia Gas’s investment in the facilities to replace the Delong Farm Tap master meter system will act as a sufficient deterrent, as the Company is not precluded from seeking to recover its investment amount in a future rate proceeding.

The tenth factor we may consider is other relevant factors. 52 Pa. Code

§ 69.1201(c)(10). We believe that it is in the public interest to settle this matter so as to avoid the expense of litigation. In addition, we believe the Settlement is in the public interest because it will result in public benefits that will promote gas safety and reliability in Columbia’s service territory.

For the reasons set forth above, after reviewing the terms of the Settlement Agreement, we find that approval of the Settlement, as modified by this Opinion and Order, is in the public interest and is consistent with the terms of our Policy Statement.

We recognize that the Parties have the right, under the Settlement, to withdraw from the Settlement if the Commission does not approve it as filed.  If any Party wishes to withdraw from the Settlement, it shall file with the Secretary of the Commission, and serve on all Parties to this proceeding, an election to withdraw within twenty days from the date that this Opinion and Order is entered.  If such an election to withdraw is filed, the Settlement shall be disapproved, without further action by this Commission, and this matter shall be returned to I&E for further action as deemed appropriate. If no Party elects to withdraw from the Settlement within twenty days from the entry date of this Opinion and Order, then this Opinion and Order shall become final, and the Settlement, with the modification discussed herein, will be approved, all without further action by this Commission. [[5]](#footnote-5)

**Conclusion**

Based on our review of the Settlement and the Statements in Support of the Settlement filed by the Parties, we shall conditionally approve the Settlement, as modified by this Opinion and Order; **THEREFORE,**

 **IT IS ORDERED:**

1.     That the Settlement Agreement filed by the Commission’s Bureau of Investigation and Enforcement and Columbia Gas of Pennsylvania, Inc. on February 6, 2014, is approved as modified by this Opinion and Order, subject to the condition set forth in Ordering Paragraph No. 2.

                 2.     That, if either of the Parties wishes to withdraw from the Settlement Agreement, that Party shall file with the Secretary of the Commission and serve on all Parties to this proceeding an election to withdraw within twenty (20) days from the date that this Opinion and Order is entered.  If such an election to withdraw is filed, the Settlement Agreement shall be disapproved, without further action by this Commission, and this matter shall be returned to the Commission’s Bureau of Investigation and Enforcement for further action as deemed appropriate.

3.      That, if no elections to withdraw are filed pursuant to Ordering Paragraph No. 2, this Opinion and Order shall become final without further Commission action, and it is further ordered:

  a.     That, in accordance with Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301, within thirty (30) days of entry of the Commission’s final Opinion and Order, Columbia Gas of Pennsylvania, Inc. shall pay a civil penalty in the amount of $200,000.  Said check or money order shall be made payable to “Commonwealth of Pennsylvania” and shall be mailed to:

Pennsylvania Public Utility Commission

P.O. Box 3265

Harrisburg, PA  17105-3265

 b.    That a copy of this Opinion and Order shall be served upon the Financial and Assessment Chief, Office of Administrative Services.

c.   That the Secretary’s Bureau shall mark this proceeding closed upon receipt of payment of the $200,000 civil penalty.



 **BY THE COMMISSION,**

Rosemary Chiavetta

 Secretary

(SEAL)

ORDER ADOPTED: September 11, 2014

ORDER ENTERED: September 11, 2014

1. The Delong Farm Tap is a master meter system located on Fullerton Road in Bradford, Pennsylvania which is owned and operated by Ms. Casey Delong and served by Columbia Gas. The system is a “farm tap” arrangement, whereby the landowner is served by a private gas line connected directly to the distribution facilities, and the private gas line from its connection to the distribution facilities to the premises belongs to the landowner. Eight consumers are currently connected to and taking gas from the Delong Farm Tap. There are privately-owned meters at each of the eight premises served by the Delong line. Columbia Gas facilities serving the Delong line include 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. Ms. Delong is billed by Columbia Gas for the usage on the Delong line as measured by Columbia Gas’s meter and, 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. Settlement at 22. [↑](#footnote-ref-1)
2. These paragraphs provide as follows:

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 contactor employees to this new standard as they are hired, and current employees and contract employees as their existing qualifications expire; . . . . [↑](#footnote-ref-2)
3. The Parties have agreed that Columbia Gas will not seek recovery of any portion of this civil penalty amount in any future ratemaking proceeding, and that it will not be tax deductible under Section 162(f) of the Internal Revenue Code, 26 U.S.C.S. § 162(f). Settlement at 24. [↑](#footnote-ref-3)
4. During this time period, Columbia Gas paid three other civil penalties which were relatively small in amount. One of the civil penalties resulted from a Settlement. *See*, *Pa. PUC, Law Bureau Prosecutory Staff v. Columbia Gas of Pennsylvania, Inc*., Docket No. C-2010-2071433 (Order entered August 31, 2012) (Columbia paid a $5,000 civil penalty as a result of a temporary problem in its bill viewer program that allowed the bills of twenty-two customers to be viewed by other customers on Columbia’s website). Two of the civil penalties resulted from customer complaint proceedings. *See*, *Harris v. Columbia Gas of Pennsylvania, Inc.,* Docket No.
C-2011-2241198 (Order entered January 20, 2012) (Columbia Gas was ordered to pay a $500 civil penalty for failing to provide reasonable and adequate customer service); *White v. Columbia Gas of Pennsylvania, Inc.,* Docket No. F-2009-2096158 (Order entered February 26, 2010) (Columbia Gas was ordered to pay a civil penalty of $250 because it failed to provide actual meter readings to a customer as frequently as required by our Regulations). [↑](#footnote-ref-4)
5. In the event that no Settling Party withdraws from the Settlement, this Opinion and Order shall become final effective on the date that is twenty-one days following the entry of this Opinion and Order. [↑](#footnote-ref-5)